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BEFORE THE INDIANA GAMING COMMISSION

REGULAR BUSINESS MEETING

TRANSCRIPT OF PROCEEDINGS

DATE: September 8, 1995
PLACE: Indiana Government Center Auditorium
REPORTED BY: Deanne S. Hutson, Notary Public

MEMBERS OF THE COMMISSION

Alan I. Klineman, Chairman
Robert W. Swan
Ann Marie Bochnowski
David E. Ross, Jr., M.D.
Donald Vowels
Thomas F. Milcarek

ALSO PRESENT:

John J. Thar, Executive Director
and Members of the Staff

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Indianapolis, Indiana 46204
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1 CHAIRMAN KLINEMAN: I think we'll try to
2 start the meeting. Call to order the meeting of
3 the Indiana Gaming Commission. Let the record
4 show that all of the commissioners except
5 Commissioner Sundwick are present and we
6 therefore have a quorum.

7 Before we get started I would like to
8 welcome Bob Swan to the Commission. Bob is a CPA
9 from Evansville, Indiana. He is the managing
10 partner of the Kemper Group of CPA's. He
11 attended the University of Southern Indiana and
12 Indiana State, and he is replacing Gene Gilmer
13 who resigned, as you all know, some time ago. We
14 want to welcome Bob to the Commission. In case
15 you haven't seen him stand up, he's six six and
16 with his addition to our commission we have
17 decided to challenge the Lottery Commission and
18 the Racing Commission to volleyball or
19 basketball. They can choose either one they
20 want. We do welcome you, Bob, and thank you for
21 consenting to join our group. I'm sure you'll be
22 a fine member.

23 COMMISSIONER SWAN: Thank you.

1 CHAIRMAN KLINEMAN: The first item of
2 business would be the approval of the minutes of
3 the last meeting. I don't know if I even want to
4 read the minutes of the last meeting. We
5 actually have two sets of minutes. We have the
6 meeting of June 19, 1995, which I guess we'll
7 take first. Is there a motion to approve those
8 minutes?

9 COMMISSIONER MILCAREK: I so move.

10 CHAIRMAN KLINEMAN: It's been moved. Is
11 there a second?

12 COMMISSIONER BOCHNOWSKI: Second.

13 CHAIRMAN KLINEMAN: And seconded. All
14 those in favor say aye. Contrary. And show Mr.
15 Swan abstains from the minutes since he was not a
16 member of the -- approval of the minutes since he
17 was not a member of the Commission at that time.

18 The next would be the minutes of the
19 meeting of June 30, 1995, which was sort of an
20 interesting meeting. Is there a motion to
21 approve those minutes?

22 COMMISSIONER MILCAREK: I will.

23 CHAIRMAN KLINEMAN: It's been moved. Is

1 there a second?

2 COMMISSIONER VOWELS: I'll second.

3 CHAIRMAN KLINEMAN: Been seconded. Any
4 discussion? All those in favor say aye.
5 Contrary. Show the minutes of June 30, 1995,
6 also approved with Mr. Swan abstaining.

7 Next item on our agenda is the report of
8 Mr. Thar, Executive Director.

9 MR. THAR: Thank you, Mr. Chairman,
10 members of the Commission. Unfortunat^{ely} this is
11 going to be much longer than maybe we have been
12 able to give in the past. The first item to
13 report on is the referendum from Floyd County
14 will each have a second referendum. At the time
15 of the general election of this year Porter
16 County will not have a referendum. No other
17 counties are going to have a referendum either.
18 As you are aware, both Floyd and Clarke Counties
19 failed to pass a referendum in November of 1993,
20 and they are now eligible for that referendum in
21 November of 1995.

22 With regard to suppliers. As of
23 September 1, 1995, the Commission had received 21

1 applications for suppliers licenses.

2 Recommendations for the issuance of temporary
3 licenses to some of the applicants will be made
4 during the new business portion. We'd like to
5 remind suppliers to get the applications on file.
6 It's getting so close to some prospective dates
7 that there's a possibility if they continue to
8 delay we will not be able to get the backgrounds
9 done even for a temporary license.

10 Rules. Both final and proposed rules
11 have been worked on since the last meeting and
12 they are also a new business item.

13 Updates on the certificate of
14 suitability holders. With regard to the ones in
15 Gary, Indiana, both Trump ^Indiana, Inc. and
16 Barden/PRC are to be reviewed as new business
17 items. Consequently, I will not report on those
18 at this time.

19 Evansville. In a nutshell the progress
20 being made by both ^{Azta}Astar and the City of
21 Evansville has been smooth and very productive.
22 The primary issue remaining is the resolution of
23 the litigation brought by Mr. Motley which is

1 presently set for hearing on October 11th, 12th
2 and 13th. I've been advised by the parties that
3 the administrative law judge has advised that a
4 decision should be forthcoming within the month
5 following. It is presently anticipated that
6 ^{Aztor}Astar will be ready for the issuance of its
7 gaming license and the opening of its riverboat
8 sometime during December 1995. In preparation
9 for opening, the staff has been working with
10 Indiana State Police to identify and staff the
11 Indiana State Police positions which will
12 function as Indiana Gaming Commission agents on
13 the boat. Presently five of the nine positions
14 have been filled and the individuals have
15 commenced training. ^{Aztor}Astar presently intends to
16 move its vessels from the City of Evansville
17 to -- the name of their boat is the City of
18 Evansville from Jeffboat to Evansville in the
19 early part of November 1995. Prior to its move
20 the vessel is to be outfitted with non-
21 functioning gaming equipment which will involve
22 participation by the Indiana Gaming Commission
23 agents in the inventory of that as well as

1 certain staff members. Traffic flow and signage
2 issues have been pretty much worked out. Hiring
3 and training has progressed and it is anticipated
4 that ^{Astar} Astar will meet its obligations towards the
5 hiring from the two wards in Evansville that
6 agreed to priority hire from.

7 Rising Sun. Staff received a letter
8 from the Louisville District of the Army Corps of
9 Engineers during the last week of August of 1995
10 indicating that the Rising Sun Riverboat Casino
11 and Resort application had just become ready for
12 publication in the latter part of August. Staff
13 has met with Rising Sun Riverboat Casino and
14 Resort, the Indiana Department of Transportation,
15 Rising Sun and various consultants to discuss
16 Highway 56 issues, and it appears that the
17 methodology of handling this issue is
18 progressing.

19 With regard to the Indiana Department of
20 Transportation, I'd like to advise the Commission
21 that the Department has assigned Mr. Walter Land
22 who is here today as the primary person for that
23 department in handling all highway issues as they

1 pertain to all the riverboat sites throughout the
2 state. From Staff's prospective Mr. Land has
3 been doing a marvelous job not only staying on
4 top of the highway stuff, but also pushing
5 forward and meeting with people. I think we'll
6 hear from Mr. Land during the course of new
7 business.

8 Rising Sun Riverboat Casino and Resort
9 is in the process of entering final negotiations
10 for the acquisition of one of several vessels
11 they are considering, all of which would meet or
12 exceed the vessel description set forth in its
13 application for both temporary and permanent.
14 Rising Sun Riverboat Casino and Resort has
15 proposed certain changes in the site plan which I
16 will summarily describe as follows. This will
17 all occur on the same piece of property the
18 Commission saw when we visited the site. The
19 proposed moving the hotel and the docking
20 facility to southwest or a little bit closer to
21 town than where it was originally. They plan to
22 move the outdoor entertainment facility
23 northeasterly or away from the city but still on

1 the same piece of property. They have purchased
2 additional acreage immediately adjacent to the
3 property the Commission saw, and purchase of that
4 property is for the purpose of constructing a
5 golf course as a part of the overall facility
6 rather than having the golf course dislocated
7 from the facility. Presently Rising Sun
8 Riverboat Casino and Resort is aggressively
9 pursuing a time line which may allow them to
10 commence gaming operations during the first
11 quarter of 1995 or towards the end of the first
12 quarter of 1995. However, as we are all aware,
13 the time line is very dependent on the timing of
14 the issuance of the Corps permit. Other issues
15 with regard to this particular certificate of
16 suitability holder will come up in new business.

17 With regard to Lawrenceburg. Indiana
18 Gaming Company LP has revised its site plan to
19 accommodate the increased size of its project and
20 a few of the project representations made by it
21 during the hearings in June 1995. That proposed
22 revised site plan should be a part of the packet
23 and will be at the end as we deal with some other

1 issues with regard to Indiana Gaming Company.
2 They have purchased additional land immediately
3 adjacent to their site which is the former
4 sawmill to accommodate this new site proposal.

5 The same letter which the staff received
6 from the Corps of Engineers concerning Rising Sun
7 Riverboat Casino and Resort also commented with
8 regard to Indiana Gaming Company LP. They
9 indicated that as of the latter part of August
10 the Corps did not have a completed application
11 ready for public notice due to what the Corps
12 described as weekly changes in the application on
13 behalf of the applicant. Indiana Gaming
14 indicated during a conference call on September
15 6, 1995, this past Wednesday, that a lot of
16 changes have been based on Corps suggestions but
17 also they had made some other changes and that
18 they would have a completed application on file
19 Thursday, September 7th. I've been advised that
20 has occurred.

21 A temporary vessel has been identified
22 by Indiana Gaming which will exceed the
23 dimensions of the temporary vessel described in

1 the application in their presentation. Indiana
2 Gaming is in the final negotiations with several
3 boatyards for the construction of the permanent
4 vessel and it is believed that the contract for
5 that boat will be finalized by the end of this
6 month. Construction time on the permanent vessel
7 is estimated to be on the short side of a 13- to
8 16-month range.

9 Various key personnel have been
10 identified and met with staff. Work has begun in
11 areas such as hiring, emergency response plans,
12 dealer schools, minority business and women
13 business enterprise issues. Again, timing is
14 based on the issuance of the Corps permit, but
15 the present time line would target a second
16 quarter opening for the temporary gaming
17 operation. Second quarter of 1996. Indiana
18 Gaming is preparing to begin, at their own risk,
19 construction of their project inside the levee to
20 meet the presently projected time line. At their
21 own risk means that they will not have a Corps
22 permit but the Corps will allow people under the
23 rights of circumstances to begin construction as

1 long as they recognize the Corps permit does not
2 issue or construction they have done does not fit
3 in with the permit and they have done that at
4 their own risk. That will conclude the report on
5 the certificate of suitability owners.

6 Staff has been busy preparing for the
7 opening of the casino boats. As previously
8 mentioned, Indiana State Police have already
9 staffed of the nine agent positions necessary for
10 the opening of the Evansville boat which we're
11 now visualizing as being the first boat that will
12 open. It is progressing toward the
13 identification of the agents necessary for three
14 additional boat openings anticipated by the
15 first -- end of this year first quarter to second
16 quarter of next year. The identified agents and
17 some staff will be participating the opening of a
18 boat later this month in the state of Missouri.
19 Staff has begun to make arrangements to utilize
20 Gaming Laboratories International to participate
21 in the testing and licensing of the electronic
22 gaming devices and the training of the agents to
23 be able to do this themselves in the future. The

1 final procurement process has been completed and
2 the final contract is being completed for the
3 utilization of Innovative Archival Solutions,
4 Inc. as the vendor for the licensing equipment
5 necessary for each boat to purchase for its
6 opening.

7 The continued onslaught of rules you are
8 being presented with is also a part of the
9 preparation for regulating the operation of the
10 boat. With regard to the rules which Kay will
11 present, as much as a tedious task that is not
12 only to put them together for you folks to have
13 to read and review before this, Kay has basically
14 done this herself with simply criticism from
15 Floyd and I and she should really be commended
16 for sticking to this really arduous process.

17 Hiring. We have completed the interview
18 process to fill the attorney position vacated by
19 Joan Yeager and also for a PR/legislative liaison
20 position which has remained vacant to date even
21 though it's been on the staffing table. We hope
22 that those will be concluded and the people on
23 board by the end of September. Applications have

1 been received for legal assistant position but
2 interviews have not yet been conducted. It is
3 anticipated that the ^{"fill-ins"} filling positions in the
4 audit area is the next hiring to be undertaken.

5 With regard to East Chicago and Hammond.
6 Investigations by both the state police and
7 Indiana University and Purdue University are all
8 but completed. Reports should be sent to the
9 staff -- sent to the commission members by staff
10 by the first of October in preparation for the
11 hearings October 17 to October 20, 1995. We are
12 trying to give more time for people to have -- to
13 review these reports. Presently it's planned to
14 have the hearings at the Civic Auditorium Civic
15 Center in Hammond and at the Intergeneration
16 Center in East Chicago. Staff will make a final
17 visit to each of these locations to ensure the
18 way they are set up is going to meet the
19 Commission's needs.

20 With regard to Michigan City. The
21 deadline for the submission of the investigative
22 fee and amendments to the application is today,
23 September 8, 1995. The investigative teams and

1 the IU-Purdue groups will begin their respective
2 tasks upon receipt of the amendment. I will
3 advise the Commission that very shortly before
4 the start of this hearing Players Michigan City
5 has advised that they are going to withdraw from
6 Michigan City. That will be agenda item,
7 however, in October.

8 With regard to the Ohio River. The
9 remaining Ohio River deadlines will be as
10 follows. We will not set a deadline for
11 amendments nor for the investigative fee, and
12 those amendments would be going towards
13 applicants in Harrison, Crawford, Perry,
14 potentially Switzerland Counties until after the
15 referendum in Clarke and Floyd Counties is known.
16 Until after the results of the referendum in
17 Clarke and Floyd Counties is known. The results
18 of those referendum may require applicants to
19 recalculate their proposals. A deadline after
20 the referendum will not slow down the
21 investigative process for the Ohio River
22 applicants.

23 On August 28, 1995, staff met with

1 representatives of the United States Coast Guard,
2 Corps of Engineers and the Indiana Department of
3 Revenue with regard to those aspects of each of
4 those agencies that have jurisdiction over the
5 Lake Michigan developments which would include
6 not only Gary, but East Chicago, Hammond and the
7 possibility of one in Michigan City. The purpose
8 of the meeting was to examine the projects as
9 presently defined in view of the sometimes
10 competing interests of the various agencies and
11 the State of Indiana's interest in riverboat
12 gaming. While no definitive decisions were made,
13 the meeting was very productive. Two important
14 results from the meeting which can be pointed out
15 are, first, that each agency now has a better
16 understanding of the concerns of other agencies
17 when a dockside is modified to meet the
18 particular needs of one agency and how that may
19 adversely impact on another. For instance, the
20 Corps of Engineers has an overall plan that any
21 new harbors or additions to harbors should be
22 made as small as possible. In attempting to
23 adjust to fit the Corps of Engineers concern,

1 that may raise a concern from the Coast Guard
2 that too small of a harbor may make it difficult,
3 if not too dangerous, for other recreational
4 craft to maneuver in conjunction with the
5 riverboat. By the same token, the expansion of a
6 harbor so the boat never left it fits the U.S.
7 Coast Guard's concerns for safety, but it does
8 not fit the Corps of Engineers' concerns for too
9 big of a part of Lake Michigan being deprived
10 from otherwise public use from viewed from the
11 lakeside, as well as the Department of Natural
12 Resources concerning as to how much lake bottom
13 problems there could be and other such things.
14 In conjunction with that, of course, is the
15 legislative change which mandates cruising more
16 specifically than it did before as well as the
17 ability -- limiting the ability or removing the
18 ability of the Commission to regulate or rule
19 that particular area. So there now seems to be a
20 much better understanding of how adjustments by
21 one agency adjusts another. Consensus feeling
22 was that now that everyone knows the problems
23 we'll probably be able to get solutions much

1 quicker.

2 The second item to be pointed out is
3 that we have pulled the excursion rule from the
4 proposed or final rules -- proposed rules to
5 modify it in conjunction with observations made
6 by the Coast Guard that all Lake Michigan boats
7 should probably be required to meet the same
8 minimum certification. This is something we were
9 not aware of before. The statute stays that all
10 boats must be certified by the Coast Guard, but
11 the Coast Guard has different levels of
12 certification. So boat A from one place on Lake
13 Michigan say we want to be certified at a given
14 level, Boat B at a different level, meaning that
15 one might have limitations built into its
16 certification that another does not causing that
17 potentially an unfair advantage later because
18 somebody didn't spend as much money that they
19 don't have to cruise or attempt not to cruise or
20 that cruising could be dangerous. Consequently,
21 the Coast Guard has recommended or their
22 observation was is that all Lake Michigan boats
23 should be certified to cruise year round.

1 Whether or not they do based upon the weather
2 conditions, safety, boat traffic and other items
3 is a different issue. In view of the statutory
4 changes made by the legislature on the cruising,
5 we believe that the observation by the Coast
6 Guard is well taken. We are working with them to
7 work up with the proper certification and the
8 language to insert into the rule that would
9 require that. The Corps of Engineers and the
10 Indiana Department of Natural Resources indicated
11 that this new approach may very well be
12 beneficial to curing some of their respective
13 concerns and issues with regard to the proposed
14 harbor designs.

15 Mr. Chairman, Members of the Commission,
16 that would conclude my report. Any questions?

17 COMMISSIONER BOCHNOWSKI: We're
18 certifying boats to cruise year round in Lake
19 Michigan we heard some reports that would require
20 wetsuits for every passenger and so on. Is that
21 still the case or (inaudible)

22 MR. THAR: That's the issue that we've
23 been grappling with. If we just deal with the

1 wetsuit safety issue. Our discussions with the
2 Coast Guard have not yet come to the point where
3 we can come up with anything final. What they're
4 presently suggesting that they may modify or come
5 up with a new certification type rating which
6 would take into account the fact that the vessel
7 may have to have the ability to cruise year round
8 but yet back off on the wetsuit type requirement
9 and allow instead other types of safety equipment
10 which could be utilized in view -- if something
11 happened to the boat. By the same token, they
12 have suggested if we -- since the statute doesn't
13 set how far the boat has to cruise, if we move
14 what was the minimum -- the maximum before from
15 three miles to potentially to one mile, that then
16 allows them consistent with their rules and
17 regulations to adjust the safety equipment that
18 would be required. I don't want people to take
19 that to the bank, however, because we're in the
20 process of working with the Coast Guard to come
21 up with something that satisfies the minimum
22 certification for us because all the statutes has
23 to be certified by the Coast Guard and at the

1 same time it does not require an investment in
2 equipment which would prove totally unnecessary.

3 COMMISSIONER BOCHNOWSKI: Right, and we
4 don't want to get to the point where the boats
5 really become too expensive. It's a trade-off
6 because you really want safety but it seems like
7 we should limit how far out they can go.

8 MR. THAR: Yes, that's one of the angles
9 being look at. That plus, of course, emergency
10 response plans submitted by those groups to be
11 able to show how they would expect to handle
12 emergencies on the boat when it was out on the
13 lake inside its cruising range.

14 COMMISSIONER BOCHNOWSKI: It's a real
15 problem. Do you have any idea when this will all
16 be resolved?

17 MR. THAR: We're in the process of
18 working with it. Kay has primarily been dealing
19 with the Coast Guard. What's the latest you've
20 heard?

21 KAY FLEMING: The Coast Guard in
22 Shaumburg, Illinois, the Chicago district office,
23 is coming up with the qualifications they feel

1 are necessary. They have to clear that through
2 their Washington office. At the same time I am
3 currently revising the excursion rule to
4 incorporate those concerns and I hope to share
5 that with the Coast Guard, Corps and Department
6 of Natural Resources the middle of next week. So
7 maybe in the next two weeks. Hopefully we'll
8 have an excursion rule for the October meeting.

9 CHAIRMAN KLINEMAN: Do you happen to
10 know what sort of emergency response programs
11 we're receiving in connection with Evansville and
12 other places starting to fall in place?

13 MR. THAR: We have not received drafts of
14 those yet. They have been topics of discussion
15 during the course of our monthly or more often
16 conference calls with each of the certificate of
17 suitability holders. Each has been advised, and
18 particularly in southern Indiana, there may not
19 be a lot of assets in place for handling two
20 thousand passengers that may be caught up in some
21 type of disaster. They are looking in part for a
22 first type of marine facilities are available if
23 the boat becomes disabled, even if they have to

1 private contract something like that out.

2 Secondly, what is the situation on land base
3 situation such as emergency rescue type teams,
4 emergency response teams, hospital facilities,
5 fire capabilities, police capabilities, hospital
6 capabilities. We are awaiting those plans and
7 we've been advised we will not be able to operate
8 unless a plan that meets the approval of this
9 Commission as well as some of the other agencies
10 is in fact in place.

11 CHAIRMAN KLINEMAN: Any other questions?

12 Thank you again, Mr. Thar. As I have done at
13 many meetings before, I want to commend the staff
14 again. They are really undertaking to do a lot
15 of things all at once. As you know, we're still
16 licensing companies. We are trying to bring
17 those people who have certificates of suitability
18 to an operational standard and now, as you heard,
19 we are gearing up to fulfill the requirements of
20 the Commission in regards to regulating those
21 people who are operating. So we're really, the
22 staff at least has plates that very very full and
23 I think everything is running very smoothly, but

1 it's requiring a great deal of effort on the
2 behalf of all those people who are part of the
3 staff and I want to again commend them for their
4 hard diligence and fine work.

5 The next item on our agenda are the
6 rules. We're into the new business section. Kay
7 Fleming, our chief counsel, I think will present
8 the final and proposed rules that we have before
9 us.

10 KAY FLEMING: Just as a general
11 observation, we have streamlined the resolution
12 process and eliminated the whereas clauses and
13 put forth factors that are being considered
14 before the resolution is adopted to try and cut
15 down on the amount of paper we use when we draft
16 resolutions. Resolution 1995-21 is a resolution
17 which adopts final rules. Those rules will
18 publish on July 1, 1995, and a hearing is July
19 27, 1995.

20 (Resolution 1995-21 was read into the
21 record at this time.)

22 CHAIRMAN KLINEMAN: Thank you. Is there
23 anyone that would like to make the motion to

1 adopt Resolution 1995-21?

2 COMMISSIONER SWAN: It's moved.

3 CHAIRMAN KLINEMAN: It's been moved and
4 seconded. Is there any further discussion? Does
5 everyone understand what we're doing? Hearing
6 none, all those in favor of adoption of
7 Resolution 1995-21 say aye. Contrary.
8 Resolution is adopted.

9 The next item is contained in Resolution
10 1995-22 and I will call on you again. You
11 probably can omit some of the --

12 KAY FLEMING: I thought since we have
13 the form out of way we can omit that. Basically
14 it just sets forth the items that we are being
15 considered and adopting the proposed rules, and
16 these rules will be adopted and enacted under by
17 all of the licensees, persons who are patrons of
18 the riverboat and do business with each applicant
19 or licensee.

20 (Resolution 1995-22 was read into the
21 record at this time.)

22 CHAIRMAN KLINEMAN: You've heard the
23 body of the resolution. Anyone wish to make the

1 motion to adopt Resolution 1995-22?

2 KAY FLEMING: One more thing, Mr.
3 Chairman. Just to announce that these will be
4 published in the Indiana Register October 1,
5 1995, and a public hearing will be held on these
6 October 25, 1995, at one p.m. in Room 4 of the
7 Conference Center.

8 COMMISSIONER MILCAREK: I'll make the
9 motion.

10 CHAIRMAN KLINEMAN: Is there a second?

11 DR. ROSS: Second.

12 CHAIRMAN KLINEMAN: Been moved and
13 seconded. Any discussion? Everyone understand
14 these are the rules which will now be published
15 and the hearing will be held and then they will
16 come back to us for the final adoption as we did
17 in the previous resolution. All those in favor
18 of the Resolution 1995-22 say aye. Contrary.
19 Resolution is adopted.

20 Now we have some forms, I think, that
21 had previously been referred to Miss Fleming.
22 Forms and transfer of ownership and the ethics
23 both for the commission members and the

1 employees.

2 (Resolution 1995-23 was read into the
3 record at this time.)

4 KAY FLEMING: So we do have a couple of
5 certificate of suitability holders who are
6 interested in this form, and this resolution
7 basically adopts the form and says the Transfer
8 of Ownership Interest in Riverboat Owner's
9 License Application Form is to be filed in
10 accordance with 68 IAC 5-1 and 68 IAC 5-2.

11 CHAIRMAN KLINEMAN: As I read the form,
12 it's basically an application form, full
13 application form minus the description of the
14 project since we already know what the project
15 is. All we're changing is one of the owners.

16 KAY FLEMING: Changing one of the owners.
17 We want to know if there are changes to the
18 project and that there is also a verification
19 that any of the license conditions placed upon
20 the license or the certificate of suitability are
21 agreed to and are accepted by the person seeking
22 an ownership interest.

23 CHAIRMAN KLINEMAN: But we will still be

1 getting full disclosure from these people who now
2 want to become owners, as we did when we
3 originally granted the certificate to the other
4 parties?

5 KAY FLEMING: Yes. The state police will
6 conduct a background investigation based upon
7 what is submitted in this form and the personal
8 disclosure forms.

9 CHAIRMAN KLINEMAN: Everyone understand
10 this procedure? Then do I have a motion to adopt
11 Resolution 1995-23, resolution adopting and
12 prescribing the transfer of ownership interest in
13 riverboat owner's license application form?

14 DR. ROSS: So moved.

15 CHAIRMAN KLINEMAN: Been moved. Is
16 there a second?

17 COMMISSIONER BOCHNOWSKI: Second.

18 CHAIRMAN KLINEMAN: It's been seconded.
19 Any further discussion? If not, all those in
20 favor say aye. Contrary. Resolution 1995-23 is
21 adopted.

22 The next is the ethics disclosure
23 statements for the members and the employees.

1 Miss Fleming again.

2 KAY FLEMING: It's 1995-24 entitled
3 Resolution Adopting and Prescribing the
4 Commission Disclosure Form and the Employee
5 Disclosure Form. If you recall, we have
6 promulgated final ethics rules concerning
7 commission members, commission employees and
8 commission agents. A disclosure form is to be
9 filed by commission members and on commission
10 employees and may be required to be filed by
11 commission agents. This resolution adopts the
12 commission member disclosure form and the
13 commission employees disclosure form which are
14 contained in your packet, and the resolution will
15 become effective immediately upon your approval.

16 CHAIRMAN KLINEMAN: These disclosure
17 forms need to be filed when?

18 KAY FLEMING: The rules state by January
19 31st of each year, but obviously the rules were
20 not promulgated, nor were the forms adopted by
21 that time, so you might want to set a date in the
22 near future for filing the ones for 1995 and then
23 they will be due January 31st of 1996.

1 COMMISSIONER BOCHNOWSKI: So we'll have
2 to file one right now?

3 KAY FLEMING: If you set a date.

4 CHAIRMAN KLINEMAN: We've all seen the
5 forms. They're in our packet. They really deal
6 with the same items that we have heretofore
7 indicated to the appointing authorities that we
8 had no conflict as defined in the statutes so I
9 don't think there's any problem with filling it
10 out. I guess does anyone have a suggestion on
11 how long we should give ourselves and the staff?
12 Also cover the staff too.

13 KAY FLEMING: Yes, sir.

14 CHAIRMAN KLINEMAN: I might suggest
15 November 1st would be a date by which I think
16 everyone can fill out the forms and get them
17 back. Why don't we consider the resolution and
18 then we'll consider the date itself. We've heard
19 the resolution 1995-24, resolution adopting and
20 prescribing commission disclosure form and
21 employee disclosure form. Is there a motion to
22 adopt that resolution?

23 COMMISSIONER VOWELS: I'll move.

1 CHAIRMAN KLINEMAN: It's been moved. Is
2 there a second?

3 COMMISSIONER MILCAREK: I'll second.

4 CHAIRMAN KLINEMAN: Been seconded. Any
5 further discussion?

6 COMMISSIONER SWAN: Yes, I'd like to
7 bring up one question that I mentioned to Miss
8 Fleming before. That is on in the conflict of
9 interest section, Section C. I'm sorry. Where
10 it says participation in any business being
11 transacted with the Commission by any person
12 which the member or member's spouse or child has
13 a financial interest. It would seem appropriate
14 that that would also include a parent, but I
15 understand statutory (inaudible).

16 KAY FLEMING: (inaudible) That is in the
17 statute and that is a disclosure pursuant to the
18 statute. If the Commission wishes to expand
19 that, that is not a problem.

20 CHAIRMAN KLINEMAN: I don't know if we
21 can control your parents, if we're able to do
22 that. I don't know if we can reach back over our
23 shoulders and do that. It's one thing to expect

1 us to control our spouses and our children, but I
2 don't know if we can --

3 COMMISSIONER BOCHNOWSKI: Of course we
4 can consider this other language concerning
5 parents later on. Doesn't the statute
6 (inaudible)

7 CHAIRMAN KLINEMAN: The section that you
8 refer to where the parents are involved, it
9 basically is a question. It does not set as a
10 standard that that is in fact a violation -- a
11 conflict of interest.

12 COMMISSIONER BOCHNOWSKI: But I thought
13 that that was by statute.

14 CHAIRMAN KLINEMAN: We are setting the
15 standard because we are defining conflict of
16 interest. So that's a little different than
17 asking the question of whether or not a person, a
18 parent is --

19 MR. THAR: Here is what happens. If you
20 look at the questions, Question 1 does define
21 spouse, parent or any child having a financial
22 interest. The conflict of interest portion is
23 separate from the financial interest portion.

1 The financial interest portion covers that which
2 is stated in the statute, parents, spouse or
3 children have a financial interest in anything
4 coming before the Commission. The conflict of
5 interest is somewhat different. The conflict of
6 interest definition comes from the state ethics.

7 KAY FLEMING: The state ethics
8 (inaudible) beyond what they had to cover ours.

9 MR. THAR: It's a matter for the
10 Commission to determine whether or not they wish
11 it to be more stringent than what the state
12 already imposes.

13 KAY FLEMING: Question 1 does cover
14 parent and then Question 11 is continuing duty to
15 meet the requirement in IC 4-33-3 which
16 incorporates what we're referring to with a
17 parent having financial interest or being a
18 member of the board of directors subject to the
19 jurisdiction of this commission.

20 CHAIRMAN KLINEMAN: So parents are
21 already in? Is that what you're saying?

22 KAY FLEMING: It's just in a different
23 question.

1 CHAIRMAN KLINEMAN: What should we do?

2 COMMISSIONER BOCHNOWSKI: Does that make
3 it more consistent with the parents or does it
4 matter?

5 KAY FLEMING: I would have to review the
6 rest of the rules on the ethics before I could
7 give you a tentative answer.

8 COMMISSIONER SWAN: Is including but not
9 limited to, so I think that's the (inaudible)
10 I think we're okay.

11 CHAIRMAN KLINEMAN: When you really get
12 down to the questions, I think Mr. Thar is
13 absolutely right. The financial aspect is really
14 where that would come out and be revealed. We
15 then get into like Question 8 I think is one
16 which says disclose any other matters which would
17 create a conflict of interest or call into
18 question the integrity of the commission. I
19 think we've got enough broad stuff that I think
20 the form as such probably could be adopted and
21 then later if we need to make some more changes
22 and clarify something, we can do it, but I think
23 we ought to put this in place at least for now so

1 we'll have it on file. Having heard the motion
2 and second, any further discussion? Hearing
3 none, all those in favor of adopting Resolution
4 1995-24 say aye. Contrary. Resolution is
5 adopted and the forms of are approved.

6 Next item of business is the granting of
7 temporary suppliers licenses, and Mr. Hannon,
8 assistant executive director, will present that,
9 if he can find a microphone. Mr. Hannon.

10 FLOYD HANNON: As you remember, we came
11 up with a plan to issue temporary licenses to
12 suppliers. We've identified some steps to be
13 taken regarding those applications to ensure that
14 they meet the statutory requirements. We will
15 conduct a preliminary investigation and at that
16 time recommend that you issue a temporary license
17 and as we get time we'll go back and complete the
18 investigations.

19 CHAIRMAN KLINEMAN: The preliminary
20 background investigations have been conducted and
21 indicate that these companies meet the criteria
22 for licensure as suppliers?

23 FLOYD HANNON: Yes, preliminary

1 investigation consists of a review of the
2 application for completeness, a site visit for
3 the investigators has observed the operation and
4 checked the security procedures where that's
5 applicable, Dunn & Bradstreet checks, checks of
6 all other jurisdictions where a license has been
7 issued or pending and preliminary criminal and
8 credit checks.

9 CHAIRMAN KLINEMAN: The companies to be
10 covered by these temporary licenses under
11 Resolution 1995-25 are which ones?

12 MR. HANNON: There are five have been
13 completed to date. Paulson Gaming Supplies,
14 Inc., it's a Las Vegas company that makes a
15 variety of gaming equipment, including chips,
16 tokens, table layouts and so forth. United
17 States Playing Card Company which is a subsidiary
18 of Bicycle Holding, a Cincinnati Company that
19 supplies cards. International Gaming Technology
20 headquartered in Reno, Nevada, that has offices
21 in several states. It's a manufacturer of
22 electronic gaming devices and related equipment.
23 The George Madson Company of Independence,

1 Missouri, which is a card manufacturer, and the
2 Osborn Coinage Company of Cincinnati which is a
3 company that manufactures tokens. Four of those
4 five have licenses in good standing in several
5 jurisdictions. One, the Osborn Company, is just
6 re-entering the casino market but has licenses
7 pending in a lot of jurisdictions. We have
8 talked to all the regulating agencies. Some have
9 indicated there has been some rule violation.
10 We've looked at each of those violations. We
11 find nothing that appeared to be wanton and that
12 would deny them an ability to have a license in
13 Indiana. We would recommend that all five be
14 granted temporary licenses.

15 CHAIRMAN KLINEMAN: It's my
16 understanding that you're going to ask these
17 persons to whom we will grant temporary licenses
18 to agree to pay all the costs associated with
19 background investigations on each of the
20 applicants and also to sign a statement that they
21 understand that the temporary license is not an
22 indication of permanent license would be granted;
23 is that correct?

1 FLOYD HANNON: That's right.

2 CHAIRMAN KLINEMAN: This is just a
3 matter we need to get up an going. We're about
4 to equip some boats -- equip a boat at least and
5 get it operational. So anyway, Resolution
6 1995-25 would grant temporary suppliers license
7 to the parties names by Mr. Hannon and we would
8 by the same resolution direct the state police to
9 complete -- and staff to complete the
10 investigation so the permanent license can either
11 be granted or denied so that these people can --
12 there can be a finality to this. Is there anyone
13 who wishes to make a motion to adopt Resolution
14 1995-25?

15 COMMISSIONER BOCHNOWSKI: I so move.

16 CHAIRMAN KLINEMAN: Is there a second?

17 DR. ROSS: Second.

18 CHAIRMAN KLINEMAN: It's been moved and
19 seconded. Any discussion or questions? Hearing
20 none, all those in favor say aye. Contrary.
21 Resolution is adopted.

22 The next item of business is a request
23 of Swiss Par-A-Dice, LP, to change its names to

1 Swiss Gaming Company, LP, and Mr. Thar, you want
2 to tell us something about that.

3 MR. THAR: Yes, and that may be a
4 misnomer the way it was put in the agenda. It's
5 not so much a request; it's an advisement. We
6 received a letter from the office of Nicholas
7 Stein advising that Swiss Par-A-Dice, LP, has
8 changed its name to Swiss Gaming Company, LP,
9 which is something that they can do under the
10 laws of Indiana. Most likely it was done because
11 Par-A-Dice is no longer a part of that
12 application. It's not necessary to have a
13 resolution on that so much as it is to have the
14 Commission acknowledge for the record, and for
15 the record within the commission office the name
16 is now Swiss Gaming Company, LP.

17 CHAIRMAN KLINEMAN: So we just
18 acknowledge that we have adjusted our records to
19 show a new name?

20 MR. THAR: Yes, sir.

21 CHAIRMAN KLINEMAN: So we need no
22 further action on that item.

23 MR. THAR: I would think not.

1 CHAIRMAN KLINEMAN: We'll move swiftly
2 then to the next Switzerland County request,
3 which is a -- we have a received a communication
4 from Michael L. Jones, president of the
5 Switzerland County Council, enclosing a
6 resolution to the Indiana Gaming Commission which
7 was adopted by the Switzerland County Council on
8 August 12, 1995. It basically sets forth that
9 they have acknowledged that they were not on July
10 30th granted one of the licenses that we gave out
11 on that date and that they want to remain on the
12 active list. It has three parts. Maybe I ought
13 to let Mr. Thar present the three parts of the
14 resolution.

15 MR. THAR: It was resolved by the
16 Switzerland County Council they requested us to
17 first consider Switzerland County for one of the
18 two riverboat gaming licenses to be awarded to
19 the Ohio River counties. I believe the
20 Commission already in the scheduling has sent
21 back down to the Ohio River to consider all
22 eligible locations. I would view that as a
23 statement by Switzerland County that they have a

1 desire to continue to remain eligible. Secondly,
2 allow Switzerland County to be considered on the
3 schedule and at the same time the counties of
4 Crawford, Harrison and Perry. Thirdly, keep the
5 riverboat gaming application process in
6 Switzerland County closed and allow the two
7 current applicants to go forward.

8 With regard to the second aspect, how
9 many counties would be eligible for the remaining
10 two Ohio River licenses will not be definitively
11 known until after the referendum in November of
12 this year, and as to whether or not the process
13 in Switzerland County should remain adjusted to
14 the two current applicants is, of course, an
15 issue for this Commission, which they may or may
16 not have to decide today. Wait and see what
17 happens from the referendums and in Clarke and
18 Floyd County. That is the request of their
19 counsel. Our discussions with Mike Jones, who is
20 present, have indicated that the thinking of
21 Switzerland County is they would like to be
22 considered for the next go-around if the
23 Commission chooses to isolate the Crawford,

1 Harrison and Perry Counties and also that their
2 desire to keeping the two present applications is
3 so their consideration would not be delayed, plus
4 I think the county feels a certain loyalty to the
5 applicants that have been down there. They would
6 like the applicants to have the ability to amend
7 their application if they so desire. In talking
8 with Mr. Jones, I believe the whole county feels
9 these two applicants have stuck with Switzerland
10 County through thick and thin should be the ones
11 that get the second shot. Mr. Jones, is there
12 anything?

13 MICHAEL JONES: (Inaudible)

14 CHAIRMAN KLINEMAN: I don't think this
15 particular item is going to require action by the
16 Commission at this time. As you were advised and
17 as Mr. Thar has again reiterated, we consider
18 Switzerland County to be one of the eligible
19 counties on the Ohio River and you remain in that
20 status. As far as the rest, we have not yet
21 decided, as Mr. Thar indicated, what the schedule
22 will be for the remaining two licenses on the
23 Ohio River. At that time we will obviously take

1 into consideration resolution of your county
2 council.

3 As to the last item, likewise, having
4 not set the procedure yet, I think it would be
5 premature for us to act on the question whether
6 or not we should open up Switzerland County to
7 additional applicants or whether we should keep
8 it as it is now.

9 Anyone else have any questions or
10 comments on this particular item? Hearing none,
11 I think, as I say, we will just defer action on
12 the remainder of your requests, but they've been
13 duly noted and will be part of the record.

14 Next item on our agenda is a request of
15 Rising Sun Riverboat Casino and Resort to
16 transfer no less than 50 percent, no more than 80
17 percent ownership interest to Indiana RBG, LP,
18 and the use of the Hyatt name. That request is
19 contained in the letter from Rising Sun Riverboat
20 Casino and Resort, LLC, to Mr. Thar dated August
21 28, 1995, and executed by the applicant and
22 also -- well, it's one letter with two
23 counterparts. Next is a letter of September 6,

1 1995, that involves the use of Hyatt name in
2 connection with the operation down in Rising Sun.
3 Do you have anything further on these items, Mr.
4 Thar?

5 MR. THAR: Just to -- not with regard to
6 the change of ownership. This is a request the
7 Commission heard during the course of the
8 presentation and was considered at the time of
9 the granting of the licenses. Our perspective is
10 the resolution is not necessary to allow them to
11 change the ownership. At this point in time the
12 Commission will just direct the staff to get a
13 background investigation. When that's completed
14 then the Commission would have that and the
15 Commission will then determine whether or not to
16 go ahead and grant the request.

17 With regard to the other aspect, we've
18 already reviewed Hyatt's application and found
19 them to be suitable for licensure in Evansville.
20 So one could say, I suppose, if we had a
21 temporary license for suppliers we would probably
22 give that to Hyatt today pending the completion
23 because what we are doing now is the process of

1 updating as well as checking one other individual
2 that's been added to their organization. Hyatt
3 organization in an attempt to, A, want to deal
4 with the realities and, B, not be presumptuous by
5 advertising as a Hyatt project, has come to ask
6 basically for direction from the Commission, and
7 the direction they're asking is basically when we
8 are out recruiting employees, when we are
9 advertising the development, since we are already
10 the guaranteed financier of that, prospective 50
11 percent owner of that, to what extent may we be
12 allowed to use the Hyatt name? They have
13 suggested in the letter of September 6th to
14 myself from they be allowed to use the name in
15 those ways with the proviso that will be on all
16 of their advertising, quote, Indiana Gaming
17 Commission approval pending. From a staff point
18 of view, because we have completed so much of
19 that background, our recommendation would be to
20 allow them to go ahead and do so. It is, of
21 course, a Commission decision. Mr. Azark is
22 present, as is Mr. Daly, should the Commission
23 have any questions. They will also be -- no,

1 they won't. This is a new business item. Sorry.

2 CHAIRMAN KLINEMAN: Does everyone
3 understand where we are? In regards to the
4 transfer, the staff will complete an
5 investigation updating basically what we've done
6 from their Evansville application, but we are not
7 in a position today to consider approval of the
8 transfer as per the request of the original
9 letter. As the item -- the second item, I think
10 that the solution that they have come up with
11 sounds reasonable to me that they can continue,
12 at least on this interim basis, use the Hyatt
13 name as long as they make the representation
14 Indiana Gaming Commission approval is pending and
15 that everyone who deals with them understands
16 that. Anyone have any comments questions?

17 DR. ROSS: Before Hyatt was there proper
18 financial backing in the form of a loan? Take
19 this loan and roll it into one company with the
20 Hyatt name?

21 CHAIRMAN KLINEMAN: I really don't know
22 if the loan will actually disappear or if they
23 become an owner. I think the loan will probably

1 still be made but that they will still -- they
2 will then also assume an equity position.

3 COMMISSIONER BOCHNOWSKI: I think -- and
4 the people in the back can explain. As I recall
5 from the hearings, that the interest rate would
6 be substantially higher if they're not allowed to
7 become owners. If they are owners, then the
8 interest rate becomes lower. Is that right?
9 That's what I recall. Still a loan but a lower
10 interest rate.

11 CHAIRMAN KLINEMAN: I think you have a
12 very fine memory. Any other commissioners have
13 any questions? I think we're taking a position
14 it doesn't require any action on our part. On
15 the second aspect of it, we won't approve it but
16 obviously we are now aware of it and by taking no
17 further action I think we actually agree to their
18 request. I think we can go further.

19 MR. THAR: I don't think a vote is
20 necessary but consensus from the Commission they
21 would allow Hyatt to use that name in the way
22 they've done needs to be acknowledged in the
23 minutes.

1 CHAIRMAN KLINEMAN: Well then, any of
2 the commissioners have objection to Hyatt using
3 the name so long as they qualify in their
4 advertising and in their -- it says the
5 qualification will be included in press releases,
6 advertisements and solicitation for employees and
7 other project related materials in that
8 qualification is, quote, Indiana Gaming
9 Commission approval pending, closed quote. Does
10 anyone object to proceeding in that manner?
11 Hearing none, it will be by consensus that we
12 approve the use of the Hyatt name under those
13 conditions.

14 The next item on our agenda starts to
15 get into the review of the certificate of
16 suitability both for Barden and for Trump, and I
17 think Mr. Barden is here today and Mr. Trump is
18 here today and the City of Gary is likewise here
19 today. As we get into those items, feel free
20 to -- the commissioners should feel free to
21 address any questions to any of these parties
22 concerning any of the matters we're about to
23 consider.

1 Before we get started, I guess we would
2 like to indicate that Mayor Barnes has sent the
3 Commission a letter dated September 5, 1995,
4 setting forth the City's position in respect to
5 whether or not the original indication which was
6 developed at our June 30, 1995, meeting which was
7 that the property which was being purchased from
8 Lehigh would be purchased in the names of the
9 developers but that it would then be in exchange
10 for a lease-back development agreement be
11 conveyed to the City of Gary. Mayor Barnes
12 advises the Commission that as of September 5,
13 1995, the city has not received a deed to the
14 property, although Mayor Barnes indicates in a
15 letter that things have been moving ahead, and I
16 would note for the record that I saw on
17 television that there was in fact a ground-
18 breaking this past week. I think it was on
19 Tuesday. And Commissioner Ross attended, and
20 that was very encouraging to see that we are
21 actually moving forward in that fashion. So
22 we're down to finding out exactly what else is
23 happening up in Gary so we can consider the

1 extension of the certificates of suitability.
2 The letter from Mayor Barnes will be made a part
3 of this record, and if the people who are here on
4 behalf of the city wish to add anything to that
5 which was stated by Mayor Barnes in his letter of
6 September 5th, feel free to go forward and bring
7 that to our attention. I think we will handle
8 one more item and then we will take a break.

9 In Gary, the first request that we would
10 like to handle is a request on a name change
11 which would result in the Barden certificate of
12 suitability being -- the name is a name change
13 problem. Isn't that right? We actually granted
14 the certificate of suitability to Barden,
15 President LLC. Mr. Barden, I think, has advised
16 the Commission that he has under certain
17 circumstances agreed to replace -- or to add to
18 his application Davis Gaming Company, a Delaware
19 corporation, and that results in his requesting
20 that the Commission acknowledge a change from
21 Barden/PRC-Gary, LLC, to a name of Barden-Davis
22 Casino, LLC, and so that would be our first item
23 that we need to take up. I guess we don't have a

1 resolution as such on that?

2 MR. THAR: No, again, this is something
3 that could be acknowledged in the minutes, but
4 since there's a resolution prepared with regard
5 to extending or not extending the certificate of
6 suitability, the acknowledgement of that name
7 change is included in that resolution so that
8 future commissions and staff will be able to
9 track back that Barden switched names from one to
10 another. Paperwork acknowledging that change is
11 part of the resolution.

12 CHAIRMAN KLINEMAN So this commission
13 will acknowledge that change has taken place. If
14 it doesn't acknowledge that we have met the Davis
15 Gaming Company as a principal in that
16 organization because we haven't done the
17 investigation that would be necessary to
18 acknowledge it and to substitute Davis, but I
19 think Mr. Barden understands that and as with the
20 Hyatt people, we need to have an application and
21 a formal investigation. So we will acknowledge
22 the name change and then I think what we'll do is
23 we'll take a 15-minute break, and when we come

1 back I would like to hear from the Trump and the
2 Barden groups where we are in respect to how far
3 we've moved forward since we last visited this
4 matter on June 30th so we can see if there are
5 any problems or, if not, how long of an extension
6 the Barden and Trump people wish on their
7 certificates. So if we would take a 15-minute
8 break. We'll be back here at 12:30 and we'll try
9 to continue.

10 (Short break taken.)

11 CHAIRMAN KLINEMAN: We now have a full
12 reprint of this transfer of ownership in
13 riverboat owner's license application which I
14 think needs to be completed by Hyatt and now by
15 the Davis Gaming Company, so I presume those
16 interested parties will pick up a copy of this
17 application so we can get it completed and we can
18 get on down the trail in getting them either
19 admitted or denied.

20 I thought we'd start off with a
21 presentation from the Barden people. Taking them
22 in alphabetical order. Mr. Trump being down the
23 line a little bit on the alphabet. But I guess

1 Mr. Barden is not here right this minute.

2 UNIDENTIFIED SPEAKER: He went to get a
3 drink of water. He'll be right here.

4 CHAIRMAN KLINEMAN: Take your time, Mr.
5 Barden. I taught we'd start with you and then we
6 go to Mr. Trump. There is a microphone over
7 here, Mr. Barden, if you wish. Basically as I
8 said just before the break, we'd just like to
9 know where you are today and give us all the
10 really good information.

11 MR. DON BARDEN: Thank you, Mr. Chairman,
12 Honorable Members of the Commission. This is Don
13 Barden with the Barden-Davis Casino, LLC. I'm
14 happy to report to the Commission that we have
15 fulfilled all of our obligations with respect to
16 all of the contractual obligations we have with
17 the City of Gary and as it relates to our
18 certificate of suitability. We have entered into
19 a parallel type agreement that the City has with
20 Trump, the MOU it's commonly referred to,
21 memorandum of understanding, which in essence
22 recites the key elements and refers back to the
23 key elements of our certificate of suitability.

1 That restates our commitment to the project. As
2 you know, ours is \$116 million. It also provides
3 for the reimbursement for the purchase -- for one
4 half of the purchase price of the property and
5 also for the City to enter into a lease with
6 Barden and/or a proposed Trump-Barden, LLC which
7 would be the master developer for the site.
8 We've also entered into an escrow agreement with
9 the City of Gary for that reimbursement for one
10 half of the purchase price of \$6,750,000 which
11 authorizes the City of Gary to turn that money
12 over to the Trump Indiana, Inc. group once they
13 receive the deed to the property. We've also
14 made our comments, which are not substantial, on
15 the lease that's been submitted to us and
16 returned that to the City of Gary, and I asked
17 the City if it would be fair to state to you
18 today that we were very close to an agreement and
19 they said yes. I think that can be worked out, a
20 final lease between them and us, in a matter of
21 hours, certainly no longer than four or five
22 days.

23 With respect to the proposed joint

1 venture operating agreement between Barden-Davis
2 LLC and Trump Indiana, Inc., we have made our
3 comments for that draft that was floating around,
4 returned it to the Trump organization and we're
5 waiting to hear from them. That agreement
6 basically provides for cooperation with respect
7 to the development of the site so that we have
8 joint and equal decision-making procedures so
9 that we have ongoing operating synergies such as
10 jointly operating parking lots and security and
11 other such situations. However, as you know, the
12 fact that the land is not in our name, is not
13 titled to us, we're somewhat handicapped with
14 respect to participating in the process. I'd
15 like to let bygones be bygones and try to move
16 forward and I'm willing to do so, if that same
17 spirit is indicated by all others. But as you
18 know, just a brief history. I personally
19 conceived of the settlement approach with Lehigh
20 in order to facilitate and accelerate this
21 project. Otherwise, we would have been tied up
22 for a couple of years in litigation because I had
23 established a good rapport with them and I

1 explained to them that we did not need to use
2 their commercial harbor on a permanent basis but
3 just temporarily, and they granted that to us for
4 two years for free while we had to an opportunity
5 to build our permanent harbor from their existing
6 western breakwater. I also said the acreage that
7 I identified, some 88 at the time, was adequate
8 for the development that both developers
9 promised. Eventually the City decided to concur
10 with that, although they intended to pursue the
11 condemnation and the condemnation, as you know,
12 was granted in favor of the City. However, at
13 the June 30th meeting the City dropped that
14 condemnation action in exchange for the deed to
15 the property be turned over to them. That has
16 not transpired as of this day.

17 Those are most of the salient facts.
18 With respect to the Trump organization and the
19 joint venture agreement, I can say in the last 48
20 hours we have had discussions. We're not in
21 agreement on some major issues so it's best not
22 to indicate that you have an agreement and there
23 are a couple of issues that are very major

1 principle issues. If those can be overcome, then
2 there's a possibility of agreement.

3 Basic principle here is that this
4 Commission granted two licenses, one to us and
5 one to them, and all we want is the opportunity
6 to perform under our certificate. We want to be
7 serious business people. We want to operate our
8 own facility. We want to have the flexibility to
9 choose our manager in an arm's length
10 environment, not discounting anyone or excluding
11 anyone, but have whatever negotiations take place
12 without any extraordinary leverage placed upon
13 anyone at the table.

14 Having said that, Mr. Chairman,
15 recognizing that we have demonstrated the type of
16 character and integrity that was part of your
17 selection criteria, we fulfilled our agreements
18 with the City, we're ready to get more actively
19 involved. We've never ever not been involved.
20 I've personally been involved in this for two
21 solid years, over two years, and would like to
22 think -- and some people will not agree, but I
23 think we've been part of the glue that has kept

1 us going and to progress to where it is today.

2 So I would request that the Barden-
3 Davis, LLC be granted a maximum time for
4 extension to our certificate of suitability,
5 which I believe is six months or thereabouts.
6 Thank you very much and I'll answer any questions
7 you have.

8 COMMISSIONER BOCHNOWSKI: I'm aware of
9 the disagreement you have about how much you need
10 to pay for the property, but you're making some
11 oblique references to having other people having
12 leverage over who you hire as a manager. What
13 kind of other problems are you having besides
14 agreeing on the price of the land?

15 DON BARDEN: I think the price is fully
16 stated. If you go back to the history of this,
17 if you look at our December 30, 1993 agreement
18 with the City, it says we are to pay a maximum of
19 \$5 million per developer for the Bluffington
20 site. Between the City and ourselves we've now
21 upped that to \$6,750,000 with the difference
22 coming from a re-allocation of the development
23 lump sums of \$116 million. In our memorandum of

1 agreement with the City that we signed yesterday,
2 which is patterned after the Trump memorandum, it
3 clearly states that both parties acknowledge that
4 this site is going to be joint developed and that
5 Barden would reimburse Trump one half of the
6 purchase price. We have asked on an ongoing
7 basis since July 7th, a few days after closing,
8 for documentation for a copy of the purchase
9 agreement and other information, and we received
10 most off it. That was on July 7th. July 13th I
11 believe we got most of the documents, and after
12 our attorneys reviewed it I asked let's settle
13 the costs that each us have and we'll reimburse
14 you. So ongoing and ongoing tendering of our
15 half of the money. So it was not accepted and,
16 therefore, I tendered the money to the City
17 because that's what my agreement calls for
18 because I don't own the land, my deal is with the
19 City, my deal is with the State of Indiana, so I
20 asked the City to take the money from escrow and
21 then asked the City to request that the land be
22 deeded over to them, and they entered into a
23 lease with me and the other developer, which is

1 all the contractual agreements that have been
2 around.

3 In terms of the management aspect that
4 you asked me about, Commissioner, in our
5 discussions in the last 48 hours Mr. Trump has
6 indicated that he'd like to manage for us, and I
7 said I cannot commit to that. We will look at it
8 but the basic principles -- management deals can
9 go all kinds of ways, but the bottom line is that
10 this is our license until taken from us and we
11 want to run our own business. So if something
12 can be worked out where everything else is
13 commonly managed or managed by part of the Trump
14 organization, perhaps something can be worked
15 out, but in terms of walking on that boat and
16 counting our money at the end of the day, we want
17 it to be our people.

18 COMMISSIONER BOCHNOWSKI: So that's what
19 you were referring to?

20 MR. DON BARDEN: Yes.

21 COMMISSIONER BOCHNOWSKI: Going through
22 the minutes it seems to me that this sharing --
23 the half and half on the price was something that

1 has been discussed already, but maybe I'm wrong.

2 MR. THAR: I think you're correct. I
3 think if you check the transcripts starting with
4 the presentations as well as the December 9th
5 when the certificates were issued, we went over
6 and I think Gilbert was the spokesperson for the
7 city, what was it the city wanted, what were the
8 developments, that sharing the cost of the land
9 was agreed to, deeding of the land to the city
10 was agreed to. At least to the developers it was
11 agreed to. I believe it was reiterated part of
12 major discussions on June 30th. That was what
13 the City had asked. We found ourselves between
14 that rock and hard place. Couldn't be resolved
15 because you couldn't get the deed clear title
16 until the suit was dismissed and that was worked
17 out under the agreement finally arrived through
18 Chairman Klineman that will only go through
19 September 30th with the certificate of
20 suitability. I believe that's what the city is
21 reiterating in the letter, which is that land is
22 supposed to be turned over to us and we're
23 supposed to deed it back and if that can't be --

1 the city is expressing, as I read the letter,
2 that should be able to be accomplished by
3 September 30th. They're saying if it is not
4 accomplished by September 30th, then they don't
5 want to necessarily see the certificate of
6 suitability renewed. So from the records before
7 this Commission standpoint, I think you're
8 correct that the concept of the costs of the land
9 being split, being deeded to the city and then
10 being leased back for an extended period of time
11 for a minimum rate, I believe the leases that
12 I've had an opportunity to see call for a 99-year
13 lease at a dollar year. So as long as these two
14 companies continue in gaming (inaudible). That's
15 the way the setup is and it sounds like from the
16 discussions I've had independently with Mr.
17 Barden, the Trump organization and the City that
18 all parties are at least saying they're ready,
19 willing, and able to comply. Just hasn't
20 happened.

21 MR. DON BARDEN: If I may, Mr. Chairman.
22 As a follow-up to that on the City's request of
23 September 30th, I can only state for ourselves,

1 but I would think since I don't have title to the
2 land and I put my money in escrow that our
3 certificate should not expire on September 30th
4 but be renewed for a longer period of time
5 because we're in compliance. Why should we be
6 penalized because there is not a deed-back of the
7 property?

8 CHAIRMAN KLINEMAN: One of the things
9 that we did when we originally granted these
10 certificates -- and remember they're certificates
11 of suitability; they're not licenses, Mr.
12 Barden. You kind of referred to them as licenses,
13 I've got my license and I can use it. Was that
14 you and Mr. Trump had to, because of the physical
15 situation, had to work together, and I was told
16 and this whole commission was told that we would
17 work together, don't worry. And that was really
18 true for four or five months after December. I
19 thought things were just wonderful. All of a
20 sudden we now are hearing, one, there's this
21 discussion and dispute over what is the price of
22 the land, which I think probably is a fairly easy
23 one that you businessmen ought to be able to

1 resolve and resolve quickly. But now I'm hearing
2 other things. Now involved in the situation is
3 not only the price of the land or the discussions
4 with the Trump organization, but also there's
5 management problems and who is going to manage
6 and so forth. And that is exactly the thing that
7 we did not want to have happen. That was the
8 exact thing that we were promised would not
9 happen, that you people would work together.
10 Obviously both boats shouldn't sail at the exact
11 same time. You need to be operating in
12 conjunction with each other and in competition at
13 a certain level, but basically you need to work
14 together and work together completely. And I am
15 for one rather upset when I hear that we're using
16 escrow agents and things like that. That is not
17 the way people who are supposed to be working
18 together operate. Sure you can get escrow agents
19 all the time to handle things and stand there as
20 a stakeholder, but that isn't they way of
21 partners, and you people need to be partners on
22 this land. There is no doubt in my mind it won't
23 work unless you are partners and I, for one, am

1 getting to the place where I'm getting a little
2 tired of what's going on up in Gary. I want
3 something to happen and I want it to happen now.
4 You people are all spending a lot of time, money
5 and energy on what I believe to be non-productive
6 ways when it's time you move forward and got the
7 competitive advantage that you should be getting
8 in Gary by being up and running. As I said on
9 June 30th, we're going up to grant licenses to
10 East Chicago and Hammond and wouldn't it be a
11 tragedy if Gary was still just sort of arguing or
12 fooling around or whatever when you'll be able to
13 sit there in Bluffington and watch the East
14 Chicago bot and the Hammond boat go sailing out
15 into Lake Michigan full of passengers, I hope.

16 Anyway, I myself am upset nothing has
17 been done to really get you people back on track,
18 the track that you were on when you first
19 started. And I see no reason to extend
20 certificates of suitability for anybody if all
21 we're going to hear is arguments every five
22 minutes out of the operation up there. Other
23 commissioners can express their feelings, but

1 that is my personal opinion.

2 COMMISSIONER VOWELS: What kind of
3 written agreement did Barden and Trump have or
4 was there one before it was undertaken to try to
5 get the situation straightened out with Lehigh?
6 Was there a written agreement?

7 MR. DON BARDEN: With respect to --

8 COMMISSIONER VOWELS: Purchase of that
9 property.

10 MR. DON BARDEN: I was negotiating the
11 property and --

12 CHAIRMAN KLINEMAN: I think what he's
13 asking -- excuse me, Mr. Barden. I think what
14 he's asking there was an original memorandum or
15 something of agreement between you and the Trump
16 organization. Was there not? It was entered
17 into shortly after you each received your
18 certificates of suitability.

19 MR. DON BARDEN: Yes, there was a letter
20 agreement.

21 CHAIRMAN KLINEMAN: And I think Mr.
22 Vowels is asking what did that agreement provide.

23 MR. DON BARDEN: That agreement provided

1 for the cooperation of the joint development. We
2 have not been party to any of the stuff that's
3 been going on, even though we've been sent bills.
4 I just mean -- go ahead.

5 COMMISSIONER VOWELS: My question would
6 be if two entities are going in on a joint effort
7 and to purchase a piece of real estate and
8 they're going to go in joint, wasn't there any
9 written agreement on how the party who paid for
10 it was going to be reimbursed.

11 MR. DON BARDEN: There's a written
12 agreement between the City and Trump. And I'll
13 read the respective thing. It says one half will
14 be reimbursed Trump, one half of the purchase
15 price. I also have a letter from Mr. Rivers that
16 says we will go ahead and purchase the land and
17 you can come in with your share after you resolve
18 the President riverboat issue.

19 COMMISSIONER VOWELS: Seems like the
20 wording of your share is what does that mean?

21 MR. DON BARDEN: It's been understood all
22 along between the City and each developer that
23 each developer shares one half of the purchase

1 price of the property. Without that basic --
2 it's in everybody's certificate. It's in all the
3 agreements that I have with the City, and I'm
4 saying I tendered that and it was not accepted.
5 They wanted a premium, and I said I'm not paying
6 a premium.

7 COMMISSIONER VOWELS: When did the term
8 premium come up?

9 MR. DON BARDEN: After I tendered for --
10 it came up in August.

11 COMMISSIONER VOWELS: Last month?

12 MR. DON BARDEN: Yes.

13 COMMISSIONER VOWELS: It just seems
14 strange to me if somebody came to my law office
15 and two entities wanted to buy some land, one of
16 them is going to buy it and one of them is going
17 to be reimbursed, my little law practice, because
18 all these great lawyers from outside of Indiana,
19 I can come up with what a definition of what a
20 purchase price would be. Was that never done?

21 MR. DON BARDEN: Oh, yeah, the purchase
22 price is the amount of money you pay for the
23 purchase of the property, \$13,500 -- it's

1 \$13,500,000 is the purchase price as defined in
2 the agreement between Trump Indiana, Inc. and the
3 City of Gary. It's also defined in the agreement
4 between the City of Gary and Barden.

5 COMMISSIONER VOWELS: Any other costs
6 that have been involved in it was not -- your
7 understanding was not involved with the purchase
8 price? Like you buy a house. It's not just
9 what's this house is worth.

10 MR. DON BARDEN: There's no dispute
11 whatsoever as to the purchase price. The
12 property was purchased for \$13,500,000 from
13 Lehigh Portland Cement Company.

14 CHAIRMAN KLINEMAN: Let's get down to
15 specifics. Excuse me. Let's get down to
16 specifics. You are willing pay \$6,500,000?
17 Is that correct?

18 MR. DON BARDEN: Yes, sir.

19 CHAIRMAN KLINEMAN: And how much -- next
20 question. Laying aside the question of what is
21 the purchase price or premiums or whatever, what
22 are the other disputes between you and Mr. Trump
23 at the present time?

1 MR. DON BARDEN: The other dispute is in
2 lieu of a premium, he has requested a management
3 fee for managing our boat.

4 CHAIRMAN KLINEMAN: But that's all tied
5 in with the concept of premium; is that right?

6 MR. DON BARDEN: Yes.

7 CHAIRMAN KLINEMAN: It has nothing do do
8 with how we're going to operate. This has come
9 up in connection with the premium?

10 MR. DON BARDEN: That's right, all within
11 the last 30 days.

12 CHAIRMAN KLINEMAN: What other disputes
13 do you have?

14 MR. DON BARDEN: That's basically it,
15 Mr. Chairman.

16 CHAIRMAN KLINEMAN: The last 48 hours
17 you said you negotiated and you made some
18 progress or you didn't or what happened?

19 MR. DON BARDEN: Not on the substantial
20 items, not on the principle of those issues. The
21 principle is management fee or premium for the
22 property.

23 COMMISSIONER BOCHNOWSKI: What exactly is

1 he asking for?

2 MR. DON BARDEN: I would like for him to
3 answer and speak for himself because I don't want
4 to misinterpret any of his intentions because he
5 may have changed his mind.

6 DR. ROSS: I distinctly recall all the
7 way through the meetings it was Barden who
8 presented this program as a partnership. The
9 Commission decided that when Mr. Trump came in
10 that they would break up that partnership. The
11 thing -- and one of the things you spoke about is
12 that over and over and over and over again we
13 said can you guys get together and work as a
14 partnership because the way it's set up, it's got
15 to be like that. So what my proposal is is we've
16 got to grant this extension or not grant this
17 extension as a partnership or together, and
18 perhaps we ought to hear from Mr. Trump and Mr.
19 Barden at the same time rather than make a
20 resolution because I don't think we can do it.

21 CHAIRMAN KLINEMAN: We intended to do
22 that. I just wanted to give Mr. Barden his
23 chance to tell me what the issues were and narrow

1 them down. I guess you've fulfilled that
2 request. You have told us where you are today,
3 and you're willing to pay what? Let's get down
4 to real specifics?

5 MR. DON BARDEN: As I've stated all along
6 in all the agreements, Mr. Chairman, I've been
7 consistent and honest throughout this process.
8 I'll tell you that. I said -- and it's written
9 and I put up my money. What else you want me to
10 do? I said I'll pay \$6,750,000 to reimburse for
11 one half the land and one half of all the costs
12 that are identified, just as it is in our
13 agreement. He has reimbursed me for one half the
14 cost. If there's a difference and I owe it, I'll
15 write him a check. If there's a different and he
16 owes it, he writes me a check. That's crystal
17 clear. There's no mistake about it. I've
18 articulated to him on several occasions in
19 writing. I think it's unfair for me to be
20 battered up here like this.

21 CHAIRMAN KLINEMAN: To be what?

22 COMMISSIONER VOWELS: I think you're just
23 standing there. Don't take it personally.

1 MR. DON BARDEN: Mr. Chairman, I want to
2 go on to something else. From the December 9th
3 hearing in Gary. Mr. Klineman, "I wasn't going
4 to suggest that you go through life making
5 everyone mad." Mr. Ribis, "Not me. Donald does
6 that. I think I just lost my job. I have a
7 daughter in college and a son in graduate
8 school." Mr. Klineman, "You know again we get
9 down to the ability of the Trump organization not
10 to be somewhat overbearing in a relationship."
11 Those are your words, Mr. Chairman.

12 CHAIRMAN KLINEMAN: I hate to be quoted
13 from a record that somebody else has. That
14 embarrasses me. I like to rely upon my memory.

15 Well, Mr. Trump I think we're probably
16 ready for somebody from your side. And really,
17 we're not here to build the animosity that may
18 exist and I hope it doesn't to any great extent.
19 We want to get down to specifics. We want to
20 solve this problem.

21 MR. NICHOLAS RIBIS: I have no
22 animosity.

23 CHAIRMAN KLINEMAN: And I want to get

1 boats sailing in Gary, Indiana. You people have
2 too much money involved not to work out these
3 details and get on the road.

4 MR. NICHOLAS RIBIS: Mr. Chairman and
5 Members of the Commission, I'm Nicholas Ribis.
6 I'm the President and Chief Executive of Trump
7 Hotels and Trump Indiana. Most of the
8 commissioners know me. Your staff knows me.
9 We're disappointed in Mr. Barden, but I bear no
10 animosity towards him. His statement of the
11 record is totally inaccurate and I'm disappointed
12 that this Commission would -- that he would want
13 to air something like this, but since he has done
14 that, I request an opportunity to respond for two
15 minutes. First of all, I'm insulted that he
16 would read from a record when the Commission was
17 kidding. We were playing around and I resent
18 that personally, and I was referring to my
19 family. He knows we were all laughing, and the
20 record may not reflect that, but that's what was
21 happening on that day.

22 Now, as to what's gone on this December
23 9th. Things have changed a bit. As you know,

1 Mr. Barden was here. He was not the managing
2 partner of that partnership. Presidents Casinos
3 was, and we worked with Presidents Casinos, its
4 chief executive Mr. Ellers. I must have dealt
5 with Mr. Ellers a thousand times, everyday on the
6 phone, and we worked hard to have a joint
7 development, and we had a letter of intent
8 between us. We always intended to jointly
9 develop, and there was then a condemnation by the
10 City which was terminated, but a lot happened
11 between the commencement of the condemnation and
12 the termination in early June of this year.

13 What happened? Well, Mr. Barden and
14 Presidents were fighting and there was a
15 three-month period when I didn't hear from Ed
16 Ellers. I talked to Mr. Thar because I had to
17 find out what was going on. Barden-Presidents
18 disappeared. We proceeded with the project and
19 we continued to work forwardwith the project. As
20 you know, we had a public offering which was
21 successful. Mr. Barden was well aware we were
22 closing the land. It was a thirteen and a half
23 million dollars cost, but that wasn't the only

1 cost. We hired consultants. We've done over --
2 on the land itself over \$12 million we spent. We
3 have a slide which we'll show you later if you'd
4 like to see it. We've progressed on the land,
5 and we have always said to Mr. Barden that he
6 could be our partner in the joint development,
7 but he stands here today with a new company
8 that's unlicensed and when it came to closing and
9 when it came to paying cost he paid \$195,000 to
10 the City and I paid \$13 and a half million to
11 close the land. Now, I'm not asking this
12 Commission to say "Oh, that's great." We then
13 proceeded from June 6th until I heard from Mr.
14 Barden via letter in July when he says "Oh, we're
15 moving ahead and I'm finding a partner and I'm
16 doing this and that and, by the way, let me know
17 how much money you spend and I'll do an
18 accounting and we'll tell you whether or not
19 we're going to pay." That's not what this
20 commission said. When it came to closing the
21 land he had the opportunity to give us his money,
22 half the purchase price. He didn't do it. For
23 his business reasons. He was fighting with his

1 partner. He didn't come to this commission until
2 June 30th when that document was signed in this
3 room when you just extended our certificate with
4 Presidents at that time and they terminated their
5 relationship. I don't know the terms of that. I
6 don't want to know the terms of it. I don't know
7 the terms of his relationship with Davis Gaming.
8 All I know is that Mr. Colleran, who is in this
9 room from Davis Gaming, came to me see shortly
10 after and we spent half a day together. We
11 talked. We talked about the cost. We talked
12 about approaches to management. In fact, I think
13 the suggestion came from Mr. Colleran that
14 jointly managed facilities would be cost
15 efficient, would be business efficient and would
16 be the way that he would think as a businessman
17 to proceed. He's a very substantial businessman
18 with a very substantial company. I never had a
19 problem with that. Now, all I know is that I
20 listen to -- I listened to Mr. Trump talk from
21 our airplane today in detail to Mr. Barden
22 working forward. There was a phone call
23 yesterday. I've had several calls with Mr.

1 Colleran. In fact, I had breakfast with Mr.
2 Colleran this morning. We thought we had
3 resolved all our disputes. Now Mr. Barden stands
4 up here before this commission and says -- and
5 I'm personally insulted. I don't want to even
6 speak for Mr. Trump. We've spent and we've moved
7 this project along. We had a ground-breaking.
8 Commissioner Ross was there. The City was there.
9 I didn't know anything about an escrow with the
10 city. Who's playing games here? He runs to the
11 city, signs an agreement, which I've never seen.
12 Puts money in escrow. He then tells this
13 commission he's working on the lease. Guess
14 what? We negotiated with the city with Gil King
15 and McArthur Drake, my lawyers for 60 days.
16 We've come to a final lease. Now I find out they
17 have comments, meaning Mr. Barden, which they've
18 submitted to the city. I just asked my general
19 counsel Bob Pikus have you seen those. We've
20 never seen them. We thought we had a final lease
21 agreement with the city. We're finished, but
22 when we're not finished because now Mr. Barden
23 has his suggestions. Now, to suggest that we've

1 acted in bad faith is repugnant. It's unfair to
2 this commission. It's unfair to the state. It's
3 unfair to the citizens of Gary. I have slides
4 and my staff here who are working, our human
5 resources director, the people on site, that we
6 have opened an office. I want to know what Mr.
7 Barden has done, how many people he has on site.
8 What's he done? What's he spent? I go to Gary
9 once a week. I have full-time people there. My
10 people are on site. They live in Indiana. Now,
11 to come to this commission today and say these
12 things is an outrage. If he wants to be part of
13 this deal, pay half the cost, write a check, come
14 into this deal and do it. Don't play games
15 publically like he's been beaten down. He's come
16 to this commission with an application.

17 MR. DON BARDEN: Here is a check.

18 MR. NICHOLAS RIBIS: Signed a joint
19 development agreement.

20 CHAIRMAN KLINEMAN: Just a moment.
21 We're going to let him finish.

22 MR. NICHOLAS RIBIS: We've seen that
23 theatrics before from you, Mr. Barden. You

1 misrepresented to Mr. Trump --

2 CHAIRMAN KLINEMAN: Just a minute, Mr.
3 Ribis. This thing is not going to deteriorate
4 anymore.

5 MR. NICHOLAS RIBIS: I apoligize, Mr.
6 Klineman. I'm emotional because I have my heart
7 in this project.

8 CHAIRMAN KLINEMAN: Well, I want to find
9 out how much money you expect Mr. Barden to pay
10 for his share of the land.

11 MR. NICHOLAS RIBIS: One half --

12 CHAIRMAN KLINEMAN: And I want to know
13 what arrangements you people are going to make in
14 order to jointly operate out of Bluffington
15 harbor. I want to know where we are.

16 MR. NICHOLAS RIBIS: I will tell you
17 what I believe. One half of the cost of the
18 land, one half --

19 CHAIRMAN KLINEMAN: Give me a figure.

20 MR. NICHOLAS RIBIS: \$6,750,000. One
21 half the cost of the money spent in construction
22 and demolition and consultants, which is
23 approximately another \$11 million.

1 COMMISSIONER SWAN: One half of eleven
2 million?

3 MR. NICHOLAS RIBIS: Yeah.

4 COMMISSIONER BOCHNOWSKI: So it's \$22
5 million?

6 MR. NICHOLAS RIBIS: It's about \$23
7 million. I have the exact figures in the slides
8 I was going to have.

9 CHAIRMAN KLINEMAN: You're a bright guy.

10 MR. NICHOLAS RIBIS: Yes.

11 CHAIRMAN KLINEMAN: If you were Mr.
12 Barden and you looked at the \$11 million figure
13 as your half --

14 MR. NICHOLAS RIBIS: Doesn't include the
15 bonus.

16 CHAIRMAN KLINEMAN: -- wouldn't you want
17 to see what backed that up? And when you looked
18 at it would you say, yes, these are costs that
19 were --

20 MR. NICHOLAS RIBIS: I can guarantee to
21 this commission that I offered that to Mr.
22 Colleran. My people have every dollar we spent.
23 They can look at every dollar, and I believe we

1 should get interest on the money that we've
2 expended for that period of time also.

3 CHAIRMAN KLINEMAN: I don't think from
4 what I understand there's never been a question
5 about the cost of the use of money. That's a
6 given. There's no problem with that. My
7 question is have you itemized the \$11 million --
8 actually \$22 million because if eleven is half
9 you got an itemization of \$22 million which you
10 reasonably could say went into this project, not
11 guesses or --

12 MR. NICHOLAS RIBIS: No guesses, just
13 real checks.

14 CHAIRMAN KLINEMAN: -- surveys or
15 whatever, but we're talking about you want to be
16 reimbursed your land costs plus your costs to do
17 nice things to the land, right?

18 MR. NICHOLAS RIBIS: Yes, and the
19 harbor.

20 CHAIRMAN KLINEMAN: And that's what \$22
21 million would show?

22 MR. NICHOLAS RIBIS: Twenty-two or
23 three. Twenty-three. Yes, precisely. He can

1 have that printout in a moment's notice.

2 CHAIRMAN KLINEMAN: And you have never
3 made that available to him?

4 MR. NICHOLAS RIBIS: I offered it during
5 my discussions with Mr. Colleran when things
6 deteriorated thereafter.

7 CHAIRMAN KLINEMAN: And he said don't
8 give it to me?

9 MR. NICHOLAS RIBIS: Well, I don't know
10 what -- Mr. Barden hasn't talked to me.

11 CHAIRMAN KLINEMAN: No, you said --

12 MR. NICHOLAS RIBIS: Mr. Colleran and I
13 talked but then Mr. Colleran and I stopped
14 talking when there was -- in the last two weeks.

15 CHAIRMAN KLINEMAN: So they have never
16 received those figures?

17 MR. NICHOLAS RIBIS: Well, they can --
18 yes, they're available.

19 CHAIRMAN KLINEMAN: Do you have them
20 available here today?

21 MR. NICHOLAS RIBIS: I don't, but I can
22 have them certainly gotten over to them.

23 CHAIRMAN KLINEMAN: Then what's this

1 management thing? Explain that to me real
2 quickly.

3 MR. NICHOLAS RIBIS: I think -- Mr.
4 Trump is here. Would you like to come in here?
5 I think the joint development -- it's really the
6 joint development agreement and management of the
7 property.

8 MR. DONALD TRUMP: Thank you very much,
9 sir. I have never been so disappointed in my
10 life in something. I don't think I've ever
11 worked any harder on a project. We took
12 something that was a disaster at the beginning.
13 As we all know, the site was supposed to be
14 unusable, impossible, difficult, expensive and
15 everything else, and I don't know if you'll ever
16 get to see the pictures today after hearing what
17 I said --

18 CHAIRMAN KLINEMAN: We're going to see
19 your slide show, but I want to solve some of
20 these other problems.

21 MR. DONALD TRUMP: I only you to see it
22 to show what we've done. Mr. Barden and
23 Presidents -- and it was mostly with Presidents

1 we were dealing and we were dealing very nicely.
2 Presidents, as everybody knows, had a major cash
3 problem. He can't talk about this because he's
4 got some restrictive covenant, he told me. Mr.
5 Barden told me last night and this morning, two
6 occasions, I was shocked. It was so -- it was
7 such a level of dishonor that I watched. Mr.
8 Barden, we were told, was going to stand up and
9 everything is peachy dory and we think we're
10 close to a deal. Mr. Barden stands up and
11 instead of saying what I thought he was going to
12 say -- because I was frankly -- I told you before
13 I think -- I told Mr. Thar before, I told
14 everybody before I thought things were working
15 out. I have never witnessed anything like I've
16 witnessed today, and just like he was five
17 minutes or two minutes late for making his
18 presentation, he was late --

19 CHAIRMAN KLINEMAN: Just a minute, Mr.
20 Trump. We're not getting into personalities. We
21 just want to know facts.

22 MR. DONALD TRUMP: What happened is
23 Presidents, as we all know, as Wall Street will

1 tell us, Presidents had a basic catastrophe.
2 They didn't have enough money. I was out of my
3 road show working very hard to convince the word
4 that Gary, Indiana was a good place. I mean
5 literally I think we did 58 presentations.

6 CHAIRMAN KLINEMAN: I'm going to
7 interrupt you again. That's ancient history.
8 That happened before. That may affect your
9 thinking, but let's find out where we are today.

10 MR. DONALD TRUMP: Only important in the
11 sense, sir, that my partner, which is as we call
12 Barden-Presidents, Presidents was knocking the
13 hell out of our site because Presidents didn't
14 have the money to put up their share of the
15 money. I don't know if Barden did, but
16 Presidents didn't, and he was calling and they
17 were calling analysts and during our road show
18 these people that are going to pour vast amounts
19 of money into Gary and into this corporation for
20 the building of Gary -- principally for the
21 building of Gary were saying to me "Mr. Trump,
22 your other person on that site is saying that the
23 site is terrible, it's a horrible place, that

1 Gary, Indiana is a terrible place."

2 CHAIRMAN KLINEMAN: Mr. Trump, I feel
3 like Judge Ito. I tell you I don't want to hear
4 it and you tell me anyway. Let's move on,
5 please.

6 MR. DONALD TRUMP: You're much smarter
7 than Judge Ito, believe me. The point is it was
8 a very difficult situation, and we had called
9 Presidents and we had called Barden and we said
10 please stop bad mouthing our site. We are
11 raising funds for the site, please. That's what
12 happened. Now we go along back into more recent
13 history. Presidents and Barden starts fighting
14 terribly. Presidents and Barden --

15 CHAIRMAN KLINEMAN: We know all that. I
16 hate to keep interrupting. We know all that
17 background. Just tell me where we are today.

18 MR. DONALD TRUMP: You are as tough as I
19 heard.

20 CHAIRMAN KLINEMAN: Pardon?

21 MR. DONALD TRUMP: I said you are as
22 tough as I've heard, and correctly so, and I have
23 to tell you correctly so. I have asked Mr.

1 Barden on at least three occasions to put up the
2 money for the land. He said "I can't put it up.
3 I'm in the middle of a fight with Presidents, my
4 partner." I said "Look, if we" -- he came in
5 today and he took credit for condemnation, he
6 took credit for everything. I don't know what
7 the guy has done. We called their group after
8 the Presidents started to dissolve, and I'll be
9 honest with you. I have a very good relationship
10 with Ed Ellers, but he had a problem. So what Ed
11 Ellers did is blame the site rather than blaming
12 themselves. And I don't blame them. Perhaps I'd
13 do the same thing, but all of a sudden
14 Presidents-Barden is no longer the company that
15 we're dealing with. When you talk about
16 documentation, our deals, if there were any,
17 because I don't really believe -- we were going
18 to do our individual things and we were going to
19 build a site, but they were supposed to put up
20 money. It was my idea. I have been involved in
21 condemnations before. The city started the
22 condemnation. The city filed the papers
23 incorrectly. They were combining the wrong this

1 with the wrong that, and I actually called up Jay
2 Pritzker and said could you give us a
3 condemnation lawyer or recommend a condemnation
4 lawyer who can help the city that's good in the
5 area. They recommended somebody. They went
6 went. They straightened out all the papers. They
7 actually condemned the right site this time, and
8 this is where we were. I did all that. My
9 lawyers, my everything, we did it. We got it
10 into perfect shape. We started the condemnation.
11 I have been involved in condemnations, sir, and I
12 will tell you they can sometimes take years. In
13 New York at a hotel that I own called the Grand
14 Hyatt where our relationship is very good now
15 with Pritzker, as you know, only because they
16 said we were right, but our relationship is very
17 good with Hyatt because that was one of the
18 things we had at one time as a dispute. And if
19 you ask Hyatt I think they'll tell you what
20 Donald said turned out to be correct. So it's
21 not like I'm such a bad guy. And they know it.
22 And they were actually very happy that I was able
23 to find out for them. They were running the

1 hotel. We have a very good relationship with
2 Hyatt now. I went to Mr. Handlesman of Hyatt,
3 Mr. Pritzker's top person, I believe, said "Hank,
4 who would be a good lawyer to represent in this
5 area in terms of condemnation?" He recommended a
6 Mr. Guthry, a very very top lawyer who almost
7 specializes in condemnation. He looked at the
8 papers that Mr. Barden likes to take credit for.
9 He looked at them. He said these papers are a
10 disaster. They're doing the wrong land, the
11 wrong meets and bounds, the wrong this, the wrong
12 that, and Lehigh was sitting back laughing at the
13 whole thing because they're condemning -- and
14 they knew that.

15 CHAIRMAN KLINEMAN: You keep promising,
16 Mr. Trump, that you're going to tell me what's
17 happening now, and you keep telling me what's
18 happening --

19 MR. DONALD TRUMP: You're right. But I
20 want to tell you, if you listen to Mr. Barden --

21 Mr. CHAIRMAN KLINEMAN: We don't want to
22 stay here all day. I want to get out of here.

23 MR. DONALD TRUMP: What happened is the

1 following.

2 CHAIRMAN KLINEMAN: Where are we now?
3 Tell me about the \$23 million.

4 MR. DONALD TRUMP: We got it straight.
5 We got the condemnation. Because of a properly
6 filed condemnation, my lawyers, not Barden's
7 lawyers, Mr. Pikis -- and I think you all know
8 him well and trust him well, and he is a
9 tremendous young man. Mr. Pikis and another
10 gentleman Peter from New York worked for a long
11 period of time with Lehigh and because we have
12 the condemnation correct, Lehigh decided rather
13 than fighting it, let's make a deal now. The
14 reason I wanted a deal now is that I have seen
15 condemnations fail. Condemnation is meant for
16 schools and roads and other things. I don't
17 know -- and I may be wrong, but I don't know that
18 condemnation is meant for a riverboat. If you're
19 going to build a road or school I can see
20 condemnation. If you're going to add a municipal
21 building to increase city hill. So I didn't know
22 if the condemnation was going to work. I didn't
23 want to see this site tied up for three, five and

1 seven years. We have twelve-year
2 condemnations -- not me but, in New York they're
3 going for 12 and 14 years where the land is all
4 messed up. I didn't want to get into that
5 situation. I called Mr. Barden. I called
6 Presidents. I said we've got to put up the
7 money. I don't blame Barden as much for this --
8 I believe, I don't know, but I believe as
9 Presidents because they didn't have the money. I
10 said, fellas, we made a promise to this
11 commission to do a great job. The only way we
12 can do a great job and build the land like we
13 said and be open during the month of April -- and
14 we're actually ahead of schedule during the month
15 of April is to get the land. The only way we're
16 going to have this land -- because this land
17 could be tied up for years -- is to buy it and
18 because of the power of the condemnation, Lehigh
19 would sell. And frankly, they've been very
20 honorable with us as we got to know them and as
21 we got started. We have dealt with them without
22 Barden exclusively because the point I'm going --
23 I'm going in circles. The point I want to

1 make -- and I had to bring you up to this point.
2 We made our deal with Lehigh. We were able to
3 purchase the land. We did the negotiation, not
4 Barden. We did everything. Barden was supposed
5 to come up and say -- and this is what he told
6 me. We're really working along well and you were
7 going to be happy and, to be honest, I have my
8 little speech written written right here where
9 everything is supposed to be hunkey dory, and I
10 really felt we were close to doing something. I
11 came up. We did the proper. We did all of the
12 elements. I said let's go. Put up your money
13 put up your six and a half million dollars or
14 your six million two fifty or whatever the number
15 was. Put it up. We're putting it up too. Let's
16 buy the land. Now we take out the time risk of
17 litigation. Many of you are lawyers. Now instead
18 of having a litigation we own in fee simple the
19 piece of land. I said "Don, please put it up."
20 I called him three or four times, many times.
21 Letters were written, I believe two or three
22 letters that I saw, put up your money, put up
23 your money, put up your money. This is a long

1 time ago. I don't know the date, but this is at
2 the time we purchased and before the time that we
3 purchased the land, and we've owned the land for
4 many many months. He said I'm not putting it
5 up --

6 CHAIRMAN KLINEMAN: You bought the land
7 on June 30th. You paid the money June 30th.

8 MR. DONALD TRUMP: I know, but we made
9 the deal and we worked along the deal.

10 CHAIRMAN KLINEMAN: I know, but the
11 money wasn't -- I mean I was there.

12 MR. DONALD TRUMP: Right, and we made
13 the deal and we asked --

14 CHAIRMAN KLINEMAN: Now, when we're
15 talking about cost of money since June 30th,
16 other than these other cite costs that you now --
17 and that's what I want to get down to. I want to
18 get down to Mr. Barden says \$6,750,000, no
19 problem. You say \$6,750,000 plus. Tell me what
20 the plus is and where we're going with that so we
21 can resolve this problem.

22 MR. DONALD TRUMP: I'm only saying this,
23 sir. He refused to put up any money at all. All

1 of a sudden due to -- now we are in September so
2 you can say June and we are in September. During
3 that period of time we have done a truly -- and
4 hey, I want to be as modest as possible. We have
5 done a miraculous job.

6 CHAIRMAN KLINEMAN: It's your nature.

7 MR. DONALD TRUMP: I can't help myself.

8 In fact, Don was going to stand up and say it was
9 one of the most miraculous jobs. I said "Don,
10 you can't say that," and I end up saying it. We
11 have done a miraculous job. We're taking the
12 site with all of the permit problems, with
13 railroad problems, with easement problems, with
14 this, with that. We solve these problems. And
15 now Wall Street loves the site. Now, he comes in
16 with a totally new partner, a totally new group,
17 a totally new company. I don't even know -- I
18 don't know the procedure, but perhaps other
19 people will not be so happy with all of a sudden
20 he has a brand new partner. He said "Well, it's
21 the same." What's the same? You had Presidents
22 managing the boat. You had somebody else owning
23 the boat. How does Barden walk in here now --

1 and believe me, I never thought I was going to be
2 saying this today, but how does he walk in. We
3 don't have Presidents. We have somebody else.
4 We have a new manager, a new this, a new that,
5 new percentage, and as far as I know, you never
6 approved it in the first place, so we don't even
7 have anything. So he starts writing letters, but
8 let me just end. Mr. Barden sees what a great
9 job we did. At a very quiet meeting he said you
10 have done a great job. He won't say that to you
11 because that doesn't play well for him. we have
12 done a great job. Now Mr. Barden comes in and he
13 says very strongly after everything is good,
14 after Gary, Indiana has become the darling of
15 Wall Street. People love it now. They hated it,
16 and his partnership was killing it and now he
17 says great job, here's the check. If I went to
18 him now and we didn't get the permits, what would
19 happen with Mr. Barden? He would say -- I would
20 go to him and say "Don, we failed. We put up \$23
21 million to this date." Because Nick talked about
22 the land. The real course is 23, land plus
23 costs. We put up \$23 million. We almost did a

1 great job, but we can't get about four little
2 permits out of many more. Would you do me a
3 favor? Would you give me half of the 23, we're
4 going home. We all have to go home because the
5 site doesn't work. I know and you know what his
6 answer is going to be. So I stand before you.
7 We called him, we asked him, we talked to him,
8 and Mr. Barden refused to put up money period,
9 and we asked him when he wanted to come in at a
10 later date, by the way, to finish. We said we
11 think we are entitled to a premium. We took the
12 risk. We put the money. You didn't answer our
13 phone calls. Your people didn't do any work, and
14 he said we don't want to pay premium. I think
15 it's fair. If you decide that it's not fair I
16 will waive it, but I think it's fair.

17 COMMISSIONER VOWELS: So you're asking
18 for 6.75 for the land and half of the \$23 million
19 for --

20 MR. THAR: I think the land is included
21 in the \$23 million.

22 MR. DONALD TRUMP: It's 6.75 plus
23 interest. It's eleven or twelve million dollars.

1 COMMISSIONER VOWELS: Are we talking --
2 you said that the costs were spent \$22 to \$23
3 million. Does that include \$13 million for the
4 land?

5 MR. DONALD TRUMP: I think it's about
6 thirteen five.

7 COMMISSIONER VOWELS: So you're asking --

8 MR. DONALD TRUMP: Plus expenses, plus
9 interest, and then we have the additional
10 expenses of fixing up --

11 COMMISSIONER VOWELS: You're jumping
12 ahead. I just want to lock in some numbers here.

13 COMMISSIONER BOCHNOWSKI: You're asking
14 if it's 6.75 plus the eleven or is it eleven?

15 MR. DONALD TRUMP: I believe it's half
16 of eleven, approximately half of eleven.

17 MR. NICHOLAS RIBIS: It's thirteen five
18 plus another \$10 million for money that was
19 extended. We've done the harbor. We have five
20 in the harbor.

21 MR. DONALD TRUMP: By the way, that was
22 the other problem because they kept saying here
23 is your six and a half million dollars or

1 whatever it is. They didn't say six and a half
2 plus the other eleven million or twelve million
3 dollars that we spent.

4 COMMISSIONER VOWELS: Let's just back up
5 a second so we can see what the numbers are. The
6 land itself is thirteen and a half million. You
7 spent another \$10 million on top of that, so
8 you're asking him to pay half of 13 and a half
9 million and half of the ten million so it's
10 essentially another five million give or take.
11 Is there any other number -- if he has a check
12 for you there for five million plus 6.75 million
13 is that the deed plus the interest? Is there
14 anything else?

15 MR. DONALD TRUMP: Sir, I leave this
16 with you. I come from a world of craziness.
17 It's a world of Wall Street and it is a world of
18 finance, and it is a wild crazy world.

19 COMMISSIONER VOWELS: Mine's the same
20 except the money.

21 MR. DONALD TRUMP: When I ask Mr. Barden
22 at a very risky point in this project, as you
23 know, to please come up and give me his 6.5. or

1 6.75, as you say, money in June. Now we're into
2 September and a lot of things have done over the
3 last couple of months, a lot of progress has been
4 made, a lot of approvals have been received, a
5 lot of risk has been taken, because I only say
6 this -- and I will be bound by what the
7 Commission thinks. If you think we're not
8 entitled to something, if you think -- somebody
9 said -- that was obviously Mr. Barden -- well, I
10 think you're being aggressive in asking for a
11 commission -- for a premium, and all I said, sir,
12 is that we put up \$23 million as of this moment
13 into a site. We have received nothing. Last
14 night -- or I can imagine last night Barden gave
15 the city a check. The city doesn't even own the
16 land. We own the land. We bought the land. We
17 asked Mr. Barden in June -- and actually
18 before -- substantially before because as we were
19 getting along we were calling him and saying
20 getting your money ready. Now I have to say
21 something. I'm not happy that he didn't pay
22 because this, as you know, in our company, this
23 company is doing very well. Got a lot of cash,

1 but in this particular company we expected to
2 have somebody put up half the costs. We have put
3 up -- we are building a better facility on time,
4 on budget. We're actually ahead of schedule by
5 two weeks. We've put in all this money and we're
6 doing double duty because I have money in that we
7 never had allocated. We didn't even have it
8 allocated in our prospectus. So I've been
9 forced -- and I'm very happy that there's an
10 accountant on the board. I've been forced to
11 take twice the number of dollars that I thought I
12 was going to have. We were supposed to have
13 eleven or twelve or something at this time and we
14 have 26 -- the real number including the boat,
15 which is going to be again two weeks ahead of
16 schedule and far more beautiful than we promised
17 you. The boat is under construction in
18 Jacksonville, Florida. And we were supposed to
19 have half of this money. Now we have \$26
20 million, but it's no longer risky money because
21 we took the risks and Wall Street loves us and
22 everyone loves us and we've done a great job with
23 promoting and now he comes over and he says "Hey,

1 I've got a friend" -- a friend of mine. Friends
2 and enemies. It's one of those crazy things. We
3 have Marvin Davis. Why does Marvin Davis like
4 the site? Because Trump did a great job in
5 convincing people that Gary was good despite my
6 partners that were knocking the hell out of it,
7 and now Wall Street comes here all the time. We
8 take them tours. We show them, we bring them and
9 some guy calls up "Hey, why don't we buy the
10 Barden boat. We're never going to buy Trump's
11 boat. He doesn't want to sell. He's convinced
12 of his product. Let's buy it." So he ends up
13 getting Marvin Davis as a partner, and I never
14 even ask for a commission, but he ends up getting
15 Marvin Davis as a partner. I'm jsut saying --
16 and I will totally leave it up to you, sir. We
17 took a huge financial risk. He said he will not
18 put up the money. He said this loud and clear.
19 They would not even return our phone calls. It
20 was rude, but I don't know if I claim them
21 because he had a bigger problem. His other
22 partner -- we weren't fighting with people. We
23 were not because you did mention the Hyatt

1 incident and that's been settled and nice and Jay
2 Pritzker and Hyatt will tell you that I was
3 correct. For a change I happened to be correct.
4 We have a very good relationship now. But this
5 man was asked to put up the money. He didn't put
6 up the money. We wanted to put all the money up
7 for the partnership, made the site good, made the
8 site popular and now he says "Great job, Donald,
9 wonderful job. Here is your money without
10 interest, here is your money." and I think I have
11 never been in a position like this before. What
12 I would love you to do is if you think we're
13 entitled to something, you can say it. If you
14 don't seriously think we're entitled to
15 something, we will be bound by your decision.

16 COMMISSIONER BOCHNOWSKI: In your
17 experience -- you've got receipts and accounts or
18 whatever. I mean I'm looking at it from a small
19 perspective, my experience, but you've got all
20 the documentation --

21 MR. DONALD TRUMP: Hundred percent, to
22 the penny.

23 COMMISSIONER BOCHNOWSKI: -- to prove

1 that you've spent \$23 million.

2 MR. DONALD TRUMP: Oh, aboslutely, to the
3 penny, whatever the number is.

4 COMMISSIONER BOCHNOWSKI: So assuming
5 that's all accurate then half that, what in your
6 experience at this point is reasonable interest
7 on that money and what is a reasonable
8 commission? What is normal in your business?

9 MR. DONALD TRUMP: I would say that the
10 reasonable interest would be whatever we pay. As
11 you know, we had to go out to Wall Street. We
12 have a very specific amount of interest.

13 COMMISSIONER BOCHNOWSKI: So you want
14 them to pay -- so in other words, he's
15 reimbursing your interest cost.

16 MR. DONALD TRUMP: This isn't the Chase
17 Manhattan or the prime rate at Chase. We had to
18 go out. It's a risky deal. There's a lot of
19 risk to this deal, and we had to go out and spend
20 X dolalrs for interest. I could tell you that
21 what interest is, but I don't have it now, but
22 essentially --

23 COMMISSIONER BOCHNOWSKI: So it would be

1 exactly that and you would have documentation on
2 that?

3 MR. DONALD TRUMP: Oh, yes, we had to
4 sell debt and equity to raise money which now
5 we've taken twice what we were supposed to and
6 put it into the site, and not everybody is happen
7 been that as investors.

8 COMMISSIONER BOCHNOWSKI: I understand
9 that.

10 MR. DONALD TRUMP: Because we were
11 supposed to have somebody else putting up half.

12 COMMISSIONER BOCHNOWSKI: I understand.
13 I've got that. Okay, now, what is a reasonable
14 commission? There must be --

15 MR. DONALD TRUMP: We called it premium,
16 and to be honest with you, maybe I should have
17 called it a commission. I think it would have
18 sounded maybe better. But the point I'm making
19 is that, yes, we should be reimbursed for every
20 penny with the interest that we've paid. There's
21 no --

22 COMMISSIONER BOCHNOWSKI: So that's
23 reimbursing, okay.

1 MR. DONALD TRUMP: Whatever that interest
2 is, and I'd let anybody on the board agree that
3 we pay X percent and whatever that interest is
4 for that period of time, but on top of that I
5 said that we should be entitled for having put up
6 the money, for having not received calls, for not
7 gone gone through the crap of having --

8 COMMISSIONER BOCHNOWSKI: Yeah, I
9 understand.

10 MR. DONALD TRUMP: We should receive
11 money as a payment.

12 COMMISSIONER BOCHNOWSKI: So what would a
13 percentage be on a commission?

14 MR. DONALD TRUMP: Truth?

15 COMMISSIONER BOCHNOWSKI: Yeah.

16 MR. DONALD TRUMP: It's a very hard thing
17 to determine. He has made a deal with Marvin
18 Davis that I don't believe. He's only made that
19 deal because of me because the fact is we've
20 taken that site --

21 CHAIRMAN KLINEMAN Mr. Trump, you would
22 take credit for anything.

23 MR. DONALD TRUMP: You're right. I will,

1 but he couldn't have made that deal with marvin
2 Davis on June 3rd --

3 CHAIRMAN KLINEMAN: I've got four kids.
4 I hope you don't take credit for them too.

5 MR. DONALD TRUMP: Sir, he could not have
6 made that deal with Marvin Davis prior to our
7 purchase of the site.

8 COMMISSIONER MILCAREK: Mr. Trump --

9 CHAIRMAN KLINEMAN: Let -- I think Mrs.
10 Bochnowski asks real questions. Let's quantify
11 what you're asking so we get down to a real
12 figure, but more than importantly -- and I want
13 to hear the real figure. More importantly, some
14 way this animosity has got to go away. It's got
15 to go away. We've got to forget what happened
16 six months ago. We've got to forget what
17 happened three months ago. We got to forget what
18 happened last night. You people have to work
19 together. That was the whole concept when we
20 gave you the certificates, and by God, if we have
21 to take the certificates away and start with two
22 other people, we'll do it.

23 MR. DONALD TRUMP: By the way -- and I

1 understand that, sir. I had no animosity until
2 twenty minutes ago when Mr. Barden stood up and
3 said totally different from what he was going to
4 say, and I did not have any animosity.

5 CHAIRMAN KLINEMAN: In your name people
6 are writing letters that aren't full of love and
7 kisses and best wishes. This thing didn't start
8 15 minutes ago or 20 minutes ago. We have seen a
9 series of letters between you and Mr. Barden.

10 MR. DONALD TRUMP: One of the problems we
11 have -- before I answer your question -- is who
12 are we dealing with. Is Marvin Davis approved?
13 Are they not? We don't know. He's writing us
14 letters from Barden-Davis. We didn't do business
15 with Barden-Davis. That was only three weeks
16 ago.

17 CHAIRMAN KLINEMAN: Mr. Barden told us
18 on June 30th when we let President out that he
19 was going to go find another partner but that in
20 the meantime he personally was guarantee-ing
21 performance required under that certificate of
22 suitability. I heard it.

23 MR. DONALD TRUMP: He didn't talk with

1 the money. He wouldn't send us any money. He
2 said --

3 COMMISSIONER VOWELS: We don't even know
4 what the number is. We've asked you for twenty
5 minutes what the numbers are. You haven't told
6 us. Have you told him?

7 MR. DONALD TRUMP: We can tell them by
8 the end of the day.

9 CHAIRMAN KLINEMAN: Just a minute.
10 We're going to have an orderly proceeding.

11 MR. NICHOLAS RIBIS: The number, I
12 believe, is the commissioners understanding is
13 the cost of the acquisition of the land which is
14 13 and a half million dollars and approximately
15 \$10 million for the construction and the work at
16 the site. We have five and a half million into
17 the --

18 COMMISSIONER BOCHNOWSKI: We got all
19 that, but we're asking -- there's interest which
20 we understand, but now we're asking what your
21 premium is or commission is that you're asking.
22 You must have a specific number --

23 MR. DONALD TRUMP: I would leave it with

1 the Commission. I would leave it with the
2 Commission.

3 COMMISSIONER BOCHNOWSKI: But what did
4 you ask for? You must have asked him for
5 something.

6 MR. DONALD TRUMP: I asked him for \$25
7 million for the premium for the fact that he
8 refused to put up his money and refused to take
9 the risks.

10 COMMISSIONER BOCHNOWSKI: \$25 million on
11 top of the \$11 million?

12 MR. DONALD TRUMP: Yes, on top of, yes,
13 ma'am.

14 COMMISSIONER BOCHNOWSKI: So you're
15 asking him --

16 MR. DONALD TRUMP: That's what he's
17 making with Marvin Davis in his deal. He's
18 making much more than that with Marvin Davis in
19 the new deal he struck, which is a much better
20 deal than the deal he had with Presidents because
21 of what we've done both psychologically and
22 physically to the site.

23 COMMISSIONER BOCHNOWSKI: That's 200

1 percent commission, isn't it?

2 MR. DONALD TRUMP: I don't care, to be
3 honest with you. If you think I'm entitled to
4 something, you can say so. If you don't think
5 I'm entitled, I will live with the interest and
6 the money. What I'm saying is that I really have
7 been very unfairly treated, not by you. I have
8 tremendous respect for the Commission. I have
9 been extremely unfairly treated by another
10 gentleman who had a different partner, who got in
11 a fight with that partner. Not with me. I liked
12 his partner. I thought his partner was good. He
13 unfortunately didn't have any mulah. So I get
14 into a fight -- he's fighting with his partner.
15 He then comes with a new company. I'm looking
16 for somebody. I'll put up the money, and then he
17 doesn't pay. The bottom line is I think I'm
18 entitled to something. If you decide that it's
19 zero, we will live with that, but I think it's
20 been a very bad experience for us. We have put
21 double the money in. We've carried both sides.
22 In order to get him open on April 1st or during
23 the month of April, I have put all of the money

1 up for him, and we're in there for total right
2 now of \$26 million, 23 of which half is
3 reimbursable, 23 or 24, whatever the final number
4 is, which we can have in minutes.

5 COMMISSIONER BOCHNOWSKI: The other is
6 your boat, right?

7 MR. DONALD TRUMP: Now he will open his
8 boat earlier because of what I did. He will do a
9 lot of other things earlier, but more importantly
10 and from a fairness, you have on Wall Street
11 things called risk factors. You're paid for
12 risk. If you put a mortgage on -- I used to say
13 an IBM office building. If you put a mortgage on
14 an Exxon office building you get a very low rate
15 of interest. You get a great deal. If you put
16 it on a building where the tenant is improving
17 and he just opened his business, you pay very
18 high rate of interest. I took it from a tenant
19 that was doing very badly that just signed the
20 lease. In three or four months made it a very
21 prime site. He not only gets open early, he not
22 only starts taking his money early, because he
23 wasn't putting up money. He now solves his

1 problem with Presidents. He makes a better deal
2 with a new company, a richer company and a new
3 company, and he comes and he says "Thanks,
4 Donald. Here's a check." I think it's very
5 unfair. If you think I should be entitled to
6 zero for that, I'll live with it. I don't think
7 it's fair.

8 COMMISSIONER BOCHNOWSKI: It's very
9 difficult for us to come up with an exact
10 commission amount.

11 CHAIRMAN KLINEMAN: That's not really
12 the position of this commission. As I said
13 before, it's not a question about whether we
14 decide whether you're entitled to something or
15 not. That's not what we get \$50 a day to do.
16 More importantly, I still want to get back to the
17 fact you people have to work together. You have
18 to work together, and I see no indication that
19 you work together.

20 MR. DONALD TRUMP: I would love working
21 together, sir. That's what I wanted to do, but
22 when we wanted to work together he was
23 fighting -- and I'm not blaming him.

1 CHAIRMAN KLINEMAN: It will be stuck in
2 your craw that he got opened in April and you
3 were the cause of getting him open, which you
4 believe. Maybe I don't believe it but you
5 believe.

6 MR. DONALD TRUMP: If you don't believe
7 it, then I'm wrong.

8 CHAIRMAN KLINEMAN: If you open in April
9 and he gets the benefit of it it's because of the
10 risk or whatever you took.

11 MR. DONALD TRUMP: Because we started the
12 construction much earlier.

13 CHAIRMAN KLINEMAN: How can we ever
14 forget about this? How can we ever paper over
15 this?

16 MR. DONALD TRUMP: It will be forgotten
17 from today on. It will be forgotten from today
18 on.

19 COMMISSIONER SWAN: Mr. Trump, I have a
20 question. The \$23 million, I heard testimony
21 earlier that -- I heard the word interest come in
22 as part of that number somewhere in that
23 conversation, so has it already been factored in?

1 MR. NICHOLAS RIBIS: No, it has not.

2 These are just direct cost out of pocket

3 MR. DONALD TRUMP: It was direct cost.

4 COMMISSIONER SWAN: Are those outside
5 costs versus inside costs? Are you capitalizing
6 costs of your own staff in that number?

7 MR. NICHOLAS RIBIS: No, this is -- cost
8 of our staff. We pay lawyers. We have our own
9 staff.

10 MR. DONALD TRUMP: The number we gave you
11 is outside costs.

12 CHAIRMAN KLINEMAN: If somebody
13 submitted that list to you, we submitted that
14 list to you and said these are part of the soft
15 costs directly attributable to getting the land
16 from what it was to where it is today, would you
17 say, yes, those look like those kind of costs?
18 There's nothing in there that you've just decided
19 over here we'll throw some stuff in here.

20 MR. DONALD TRUMP: I don't mind them
21 having their accountants go over it. They can
22 challenge everything. Unless there's a mistake,
23 which I don't believe there is. I believe we

1 should be entitled to home office. I do we
2 should be entitled to people that have been
3 working like Bob Pikis and lots of other folks
4 that have been working full full-time on this
5 stuff or even 50 percent of the time. That's a
6 relatively small amount of money. There is
7 absolutely nothing on that list that would
8 surprise anybody, including Mr. Barden. One of
9 the problems is when he comes and says I got six
10 million bucks waiting for you, but I say what
11 about the rest.

12 CHAIRMAN KLINEMAN: How could you think
13 you had an agreement with Mr. Barden when he
14 still has not seen the list of the costs over and
15 above the land costs which he knows? He's never
16 seen it. Maybe he refused to receive it. I
17 don't understand that.

18 MR. NICHOLAS RIBIS: Mr. Chairman, my
19 concern is a bit different there. I think Mr.
20 Barden by tendering this land and saying I'll
21 talk to you about the rest, it's a pretty unfair
22 position for him to take since we've -- all I'm
23 saying is if we're going to do, it should be one

1 transaction.

2 CHAIRMAN KLINEMAN: I agree. It should
3 be one transaction. And he said that. He says
4 if there's money they've spent to make the land
5 clearing and so forth -- you said something along
6 those lines -- he'll pay for that. I don't think
7 he's just entering for the land purchase price
8 period. He said he'd pay interest. There's a
9 lot of other things that he has as far as I'm
10 concerned agreed to pay, but he hasn't received
11 any documentation. He doesn't know what amount
12 he should pay. What's it going to take for you
13 people to work this problem out?

14 MR. DONALD TRUMP: I don't believe -- and
15 I know Nick was not sure, but I don't believe
16 that Mr. Barden has ever asked for documentation
17 other than the land, and I can tell you I speak
18 to him a lot and especially over the last 48 and
19 beyond hours. To me --

20 CHAIRMAN KLINEMAN If I were you I would
21 have given him the list immediately. Here is
22 what I want from you.

23 MR. DONALD TRUMP: The only thing he

1 asked me for the was the cost of the land. He
2 never asked me for a list. I will give him the
3 list. The list is there. I can have a list by
4 this evening I can have a list. I can have a
5 list by tomorrow morning.

6 COMMISSIONER BOCHNOWSKI: When we build a
7 house, let's say -- and I'm getting it down to
8 understandable numbers. If you build a house the
9 builder and the contractors and so on don't wait
10 for you to ask for the bill. They send it right
11 to you.

12 MR. NICHOLAS RIBIS: What happened,
13 Commissioner, in all fairness, I deal with this
14 everyday and on this particular project. From
15 the beginning Mr. Barden said -- and we can
16 produce the letter. He wrote one or two letters
17 saying I wouldn't give you half the cost of the
18 land. Mr. Pikis wrote back and said I have other
19 costs. So that in all fairness, why didn't we
20 give it when Mr. Colleran came in to see me that
21 day. I said "Mike, have your accountant talk to
22 our accountant. They can work out the numbers in
23 two minutes." I mean there's not going to be any

1 dispute. We're a public company. We have a
2 public accountant. There's not going to be any
3 issue.

4 MR. DONALD TRUMP: There was never a
5 question about that. We would give the list
6 immediately or the accountants could just get
7 together, which is probably better than giving a
8 list, and by the end of the day they can have
9 everything exactly agreed to.

10 CHAIRMAN KLINEMAN: Anybody have
11 anything more of Mr. Trump? I'm ready to get
12 back to Mr. Barden, find out where he is.

13 MR. DONALD TRUMP: Thank you, sir.

14 MR. THAR: Did you have a question?

15 CHAIRMAN KLINEMAN: You want to ask Mr.
16 Trump something?

17 COMMISSIONER MILCAREK: I wanted to know
18 if he would give Donald a bottom line right now
19 and if Donald would comment on the number.

20 MR. DONALD TRUMP: From Mr. Barden?

21 COMMISSIONER MILCAREK: Yes.

22 MR. DONALD TRUMP: If he would give me --

23 COMMISSIONER MILCAREK: If he wrote you a

1 check right now, what would you ask for?

2 (Short pause in proceedings.)

3 CHAIRMAN KLINEMAN: Did you hear --

4 MR. DONALD TRUMP: I did, sir. He said
5 if Mr. Barden offered you a number, what would be
6 your bottom line?

7 CHAIRMAN KLINEMAN: Wrote you a check
8 today is what he said.

9 MR. DONALD TRUMP: Wrote me a check.
10 That's even better. I believe we'd be entitled
11 and without -- I can give you an exact number in
12 a matter of hours.

13 COMMISSIONER MILCAREK: Ballpark.

14 MR. DONALD TRUMP: Ballpark. I believe
15 we'd be entitled -- first of all, in terms of how
16 you compose the number, I assume, is part of your
17 question?

18 COMMISSIONER MILCAREK: Yes.

19 MR. DONALD TRUMP: We would be entitled
20 to half of the land value plus interest and
21 expenses such as legal, et cetera, et cetera. I
22 believe we would be entitled to half of the money
23 that was expended on the site plus interest, plus

1 expenses, plus if there are in-house people
2 working that period of time allocated to the
3 site. I believe that when you add those two
4 numbers you have X and I believe -- and I think a
5 lot of people agree with, me but I believe that
6 in addition to that we're entitled to a piece of
7 the creation of tremendous value that we gave
8 that we handed on a silver platter to Mr. Barden.
9 However, if the Commissioner feels I'm wrong, I
10 will accept the vote that I'm wrong.

11 COMMISSIONER MILCAREK: And that number
12 is somewhere around \$36 million, ballpark figure?

13 MR. DONALD TRUMP: I ask of my original
14 number to him, and I have an idea of the kind of
15 money he's getting from Mr. Davis.

16 COMMISSIONER MILCAREK: Besides what
17 would be the ballpark figure?

18 MR. DONALD TRUMP: The first number is
19 about 22, I guess, right, Nick?

20 MR. NICHOLAS RIBIS: It's about \$23
21 million.

22 MR. DONALD TRUMP: \$23 million. In other
23 words, it would \$23 million -- and I don't know

1 if that includes interest or not. That number
2 does not include interest.

3 COMMISSIONER BOCHNOWSKI: It's half of
4 23.

5 MR. DONALD TRUMP: So it would be half of
6 23 plus interest.

7 COMMISSIONER BOCHNOWSSKI: Plus interest,
8 plus \$25 million?

9 CHAIRMAN KLINEMAN: He's saying --

10 MR. DONALD TRUMP: That's a very
11 amorphous number. Mr. Barden has a much better
12 deal today than he had with Presidents and I
13 think I created his value. I hate to --

14 COMMISSIONER BOCHNOWSKI: So you want a
15 piece of what you have created --

16 MR. DONALD TRUMP: I know one thing. If
17 I didn't create the value -- and if the site
18 failed and if we found oil-- that wouldn't be so
19 bad maybe, but if we found all corts of
20 carcinogens, as the new expression is, in the
21 site and we couldn't use it, I promise you this.
22 The \$23 million that we have in the site, when I
23 call Mr. Barden and I say "Don, it doesn't work.

1 Could you please send me a check for half of 23."
2 Somehow I have a feeling he won't be doing it.
3 We took a tremendous risk. He has made a much
4 better deal than the deal he had with Presidents,
5 and we're the ones that created that deal. I
6 will be bound by what the Commission says.

7 CHAIRMAN KLINEMAN: We're going to take
8 our break now and we now see where people are.
9 Mr. Barden and Mr. Trump can also take a break,
10 but I would suggest it would be nice if you
11 people could now maybe get someplace. I don't
12 know if you can or not, but we'll be back about
13 five after two. Give us about twenty minutes.
14 Maybe you gentleman can at least try to work
15 something out.

16 (Short break taken.)

17 CHAIRMAN KLINEMAN: We'll come back to
18 order. When we last left we had gotten, I think,
19 a figure from the Trump organization and I
20 suggested maybe Mr. Barden and Mr. Trump could
21 maybe try to work something out while we took our
22 break. I don't know if that's happened or not,
23 but we're prepared to hear from Mr. Barden now.

1 The only thing I would like -- and we've heard
2 your story and I think we understand your
3 position very well. We've heard Mr. Trump. If
4 we could keep it on a real positive where we are
5 rather than historic and other things.

6 MR. DON BARDEN: Thank you, Mr. Chairman.
7 I will honor your request. In terms of premium
8 or bonus or anything like that, we're unwilling
9 to pay any of that because it will never stop if
10 you start. There are contracts. A contract is a
11 contract. We have laws in this country, and if
12 we get away from that basic tenant, then we are
13 going to have more problems. We are willing to
14 make a payment of \$6,750,000 for our half of the
15 expenses. We will submit our expenses to Mr.
16 Trump and he can submit his to ours, and whoever
17 is owing to the other, which in this case will
18 probably be -- we will owe him the difference
19 because he says here today that he spent X number
20 of dollars. Once we get to see that and examine
21 it, we are willing to pay that. We think that
22 there should be a closing and wrap all of this up
23 because I agree with you. This should be wrapped

1 up and I think once we get over this hurdle I
2 think all parties will work together because they
3 really need us. So in terms of the documentation
4 that's needed because, as you know, everything
5 needs to be in writing, that will include the
6 joint development agreement between Trump Indiana
7 and Barden and the deeding over of the property
8 to the city and the lease-back of the property
9 from the city to the joint venture entity, as
10 always has been contemplated. So we are willing
11 to do that. If Mr. Trump will concur with that,
12 we have a deal.

13 CHAIRMAN KLINEMAN: Assuming that he
14 would agree to those terms, how long is this
15 documentation which you're talking about going to
16 take?

17 MR. DON BARDEN: Part of it I have no
18 control over in terms of the joint venture
19 agreement. I think the Commission should set a
20 deadline on that for this joint venture because
21 that solves a lot of problems, Mr. Chairman. If
22 you get the joint venture agreement done, then
23 the city can enter into a lease with the joint

1 venture agreement. Because as it stands now,
2 both of us have agreements with the city. The
3 city can't enter into a lease with any single
4 one. They have to enter into a lease with a
5 joint venture entity. So the question is how
6 fast can we develop the joint venture agreement?
7 There's a draft. Mr. Evans just told me that
8 they sent us a small one. We sent back a big
9 one. I said whatever it is there has to be a
10 basis for settling a joint venture agreement. so
11 we'd have to hammer that out. We're willing to
12 do that. Once that's done and the city leases
13 the property -- the property is deeded over and
14 the lease, I don't think we are far apart because
15 the lease was generated by the Trump organization
16 and we made our comments to the city, and the
17 basic change in it is that the lease will provide
18 for the lessee to be the joint venture entity and
19 not just Trump so --

20 CHAIRMAN KLINEMAN: I agree that the
21 lease should be with the joint venture entity. I
22 think that was contemplated from the beginning.

23 MR. DON BARDEN: That's not the way it

1 was drafted, but nevertheless, if those things
2 are done we're prepared to move forward and to
3 assist. I'll tell you because we're being sent
4 the bills and we're paying some of them and
5 having no input on any of the development.

6 CHAIRMAN KLINEMAN: I asked you for a
7 date and you haven't given me a date, Mr. Barden.
8 Do you have any idea? Do you need ten days? Do
9 you need 20 days? Do you need three weeks? What
10 do you need?

11 MR. DON BARDEN: To tell you the truth,
12 the sooner the better for me. By the end of next
13 week as far as I'm concerned because that means
14 we have standing and we can see what's being
15 spent and what's going on in the project because
16 I've heard some --

17 CHAIRMAN KLINEMAN: You say you have
18 bills that you've paid. We're talking moneys
19 that went into the land, and if you have moneys
20 that went into the land, that's a proper bill,
21 but if it's something out here -- just like I've
22 been trying to tell Mr. Trump, if it's something
23 out here --

1 MR. DON BARDEN: I've spent over a
2 million dollars prior to June 30th. If he's
3 willing to do this, which he indicated to me
4 outside, we're just talking about reimbursing
5 each other from the expenses -- since the land
6 was acquired. I will agree to that right now if
7 they will. Say that we're reimbursing expenses
8 from the date they acquired the land. Do you
9 agree with that?

10 CHAIRMAN KLINEMAN: I'm not too sure I
11 understood it. I don't think Mr. Trump was even
12 listening.

13 MR. DON BARDEN: I'm not talking to Mr.
14 Trump. I said Ribis said when we're talking
15 about reimbursement of expenses, because we have
16 expenses as well as they do, we're talking about
17 expenses going forward from the date the land was
18 closed.

19 CHAIRMAN KLINEMAN: What about if there
20 were expenses before? I think they had expenses
21 before.

22 MR. DON BARDEN: It doesn't matter.
23 Whatever they want to do it, Mr. Chairman. I'm

1 saying I'm willing to do it that way. I want
2 them to set off the cut-off period. I've been
3 working at this for two years and they just
4 started. Most of their expenditure is this year.

5 COMMISSIONER VOWELS: Are you saying you
6 just want to quid pro quo?

7 MR. DON BARDEN: That's right. Whatever
8 the cut-off is let's make it equal.

9 CHAIRMAN KLINEMAN: Whatever date is
10 picked, the date binds both of you. Is that what
11 you're saying?

12 MR. DONBARDEN: That's right, and I'll
13 let them pick the date.

14 CHAIRMAN KLINEMAN: I don't know how far
15 back it goes. That's the only problem. Talk
16 about going back. Talking about expenses
17 starting September '93 or yesterday morning?

18 MR. DON BARDEN: I think an appropriate
19 date, since neither of us had been granted a
20 certificate, would be the date that you granted
21 that, December 9, 1994. That would be the
22 logical and most reasonable.

23 COMMISSIONER VOWELS: Here is what I'm

1 thinking. I kind of thought this last time the
2 problem with Gary, and I just kind of meandered
3 around. My position as a commission member is
4 these guys are going to work this thing out and
5 I'm not sure that I want to be a mediator or
6 arbitrator here for obvious legal reasons, if
7 something goes down later, along with the other
8 lawsuits we're going to see in our lifetime here.
9 The gaming commission is going to develop into
10 another one. My thoughts here, either get two
11 boats in the water or we're going to give a
12 cutoff date to somebody else because what I see
13 here is we're forgetting about the people of the
14 state of Indiana and that's that reason that
15 we're here and we want these two guys to work it
16 out. Either work it out and make some money at
17 this thing or hit the road. My proposal would be
18 to grant a certificate of suitability until, say,
19 the end of November. Work it out. You don't
20 have to worked out, we open it up. Let's get
21 somebody else who is going to make some progress
22 here. Quit fooling around with this thing and
23 get down to brass tacks and have some benefits to

1 the people of the state of Indiana because I
2 don't really care whether Donald Barden or Donald
3 Trump make a lot of money. I care about the
4 state of Indiana, the people in Gary, and that's
5 why I'm here. So get down to brass tacks and
6 politics out the window. Figure it out or hit
7 the road, and I suggest we give a certificate of
8 suitability until some time, say, the end of
9 November. Come back. They either got it
10 together or they don't have it together. If they
11 don't have it together, they don't have the
12 certificate of suitability. We go on, find
13 somebody who can.

14 CHAIRMAN KLINEMAN: I agree very much in
15 the concept. However, I guess I would like to
16 keep a shorter string than November 30th. Any
17 other commissioners have anything to say?

18 DR. ROSS: We already have a date of
19 September 30th so why don't we live with that?

20 COMMISSIONER BOCHNOWSKI: Then how do we
21 get back together? I suppose that we could
22 just -- if we could extend it with conditions,
23 that if they don't meet these conditions by

1 September 30th then --

2 CHAIRMAN KLINEMAN: Let's see if we can
3 craft those conditions. The first condition --

4 MR. THAR: Along the lines of Dr. Ross'
5 suggestion. (inaudible) The certificates will
6 expire on September 30th unless the following has
7 occurred, in which case that on September 30th if
8 these conditions are met it will be renewed to
9 whatever date it is set. I think the
10 Commission -- I don't know if Gary wants to speak
11 on this or not, but I think on June 30th the
12 Commission was backing the proposition. The land
13 was to be turned over to Gary and leased back by
14 September 30th is what the mayor had asked.
15 Since December 9th there's always been the
16 proposition the city, as well as the developers,
17 that once the land was acquired and deeded to the
18 city and it would be leased back for a period of
19 of years. September 30th is the deadline for
20 that. We're hearing people need deadlines. I
21 think the concept is put forward short deadlines,
22 so it might very well be that they are to -- Mr.
23 Barden has indicated that joint development

1 agreement is the key to this particular thing.
2 They need to have a joint development agreement
3 executed between the parties. By noon September
4 30th the land is to have been deeded to the City
5 of Gary and leased back to the joint development
6 entity by noon September 30th. Documentation is
7 to be in the commission office by noon September
8 30th. If that does not occur, the certificates
9 expire. Either can reapply for a future meeting
10 to see if they can or we pick someone else. If
11 they do have them in, the Commission is
12 authorized a staff, to execute a new certificate
13 of suitability to each of the entities for
14 whatever date or period of time the Commission
15 would select today. That's another option I
16 would put on the table.

17 CHAIRMAN KLINEMAN: Anybody got a
18 calendar? Is September 30th a good day?

19 COMMISSIONER VOWELS: It's a Saturday,
20 isn't it?

21 CHAIRMAN KLINEMAN: I guess we're
22 dealing with the 29th at noon. I would suggest
23 as a reward for having gotten this thing back on

1 track and on down the road by the 29th of
2 September that we give a fairly long extension
3 and maybe like until the end of January so you
4 people -- if you work these things out, I hope
5 then you will be back on the road and everything
6 will be hunkey dory. If you have nothing
7 further, Mr. Barden.

8 MR. THAR: A few questions for Mr.
9 Barden. Just technical ones with regard to
10 should the certificate be renewed. Mr. Barden,
11 as we left the record on June 30th you were going
12 to go out and find a partner to apply for a
13 transfer of ownership to Davis Gaming Company.
14 Could you please explain to the Commission very
15 briefly what the arrangement is with Davis Gaming
16 Company, who Davis is and whether or not Don
17 Barden, Davis Gaming Company have funded the new
18 entity as of today.

19 MR. DON BARDEN: Davis Gaming is
20 principally owned or maybe wholly owned by Marvin
21 Davis who is a financier in Beverly Hills,
22 California. Forbes Magazine says he has a net
23 worth, liquid net worth, I might add, of over \$2

1 billion.

2 CHAIRMAN KLINEMAN: That's with a B?

3 MR. DON BARDEN: We have entered into an
4 agreement whereby he has acquired a four percent
5 interest in -- four percentage points interest in
6 Barden PRC and he has an option to acquire
7 additional percentage not to exceed 49 percent so
8 that I will always maintain with my local
9 partners at least 51 percent, and he has funded
10 and I have funded from our separate bank
11 accounts, with some deductions for moneys already
12 spent, there was a total of \$35 million. I
13 happen to have a letter from my bank here showing
14 that Barden-Davis Casino LLC has a cash balance
15 of \$34,317,000 for this project.

16 MR. THAR: With regard when we left on
17 June 30th there was an option you would be using
18 the New Yorker as offered by Presidents Riverboat
19 and Casinos. Has there been a decision made on
20 the vessel?

21 MR. DON BARDEN: We have made a decision.
22 We have notified them we will be using their
23 vessel and they have sent a press release to the

1 public notifying them that we exercise that
2 option and we can take possession whenever we
3 desire.

4 MR. THAR: That would be a temporary boat
5 or a permanent boat?

6 MR. DON BARDEN: Our intentions is for it
7 to be a temporary boat while we are awaiting the
8 construction of a new larger both.

9 MR. THAR: During the earlier part of
10 your presentation you indicated with regard to
11 the \$6.7 million allocated to the land that there
12 have been some reallocation with line items with
13 regard to the \$116 million that the overall
14 project was to be. Did I understand that
15 correctly?

16 MR. DON BARDEN: Yes, but we had already
17 done the reallocation so the \$6,750,000 would
18 still be consistent with the May 17, 1995,
19 endorsement that the city sent. We re-negotiated
20 the \$5 million ceiling to \$6,750,000 so the
21 reallocation occurred at that time so our
22 commitment for land is \$6,750,000.

23 COMMISSIONER BOCHNOWSKI: That's your

1 commitment for land, but you are in agreement
2 that you'll reimburse expenses and interest?

3 MR. DON BARDEN: Yes, we've stated that
4 in writing and cc'd the Commission and letters to
5 the Trump organization starting with the July 7th
6 of 1995.

7 MR. THAR: The r allocation of that \$116
8 million is something that's subject to the
9 perview of this commission also.

10 MR. DON BARDEN: Yes, it requires the
11 approval and review of the Commission, yes, but
12 since it occurred prior to our selection it's
13 already included so there's no change in what you
14 have on your record.

15 MR. THAR: Original change line items?
16 Can we review that?

17 MR. DON BARDEN: Yes, you can review it.
18 I don't think there is. It's consistent with
19 what we submitted in our updated May 17th
20 submission of '94.

21 MR. THAR: That's all the questions I
22 would have with regard to other aspects.

23 CHAIRMAN KLINEMAN: Anybody else have

1 anything for Mr. Barden? I think before we get
2 to Mr. Trump I think we're going to ask the city.
3 Does the city have any comments? You've heard
4 the possible scenario which would be to require
5 these gentlemen to have deeded the property to
6 the city, that the city would have leased the
7 property back to the joint venture, that
8 obviously a joint venture would have been formed
9 and the development agreement be in place. All
10 of this should happen by September 29th and,
11 failing to happen, the certificates of
12 suitability will then expire. Does the city have
13 any comment on that? And if they've done that
14 stuff -- if those things have been accomplished,
15 then it might be extended by our executive
16 director to January 31st of 1996.

17 MR. RICHARD COMBER: Mr. Chairman, Mr.
18 Klineman.

19 CHAIRMAN KLINEMAN: If you would state
20 your name.

21 MR. RICHARD COMBER: My name is Richard
22 Comber. I'm the deputy mayor of Gary, Indiana.
23 You have almost taken my total game plan in terms

1 of what you just said, but let me just say it
2 briefly anyway. First of awful, I'd like to
3 indicate that I'm not an attorney. I happen to
4 be an engineer by training, and having been an
5 engineer I had an instructor tell me a long time
6 ago that you ought to have a very definitive
7 opening and a very definitive closing and keep
8 the distance between the two very short, so I'd
9 like to do that, but in terms of a definitive
10 opening, I am absolutely glad to hear Mr. Trump
11 say that Wall Street loves Gary, Indiana. Loved
12 that. Because we love it. We feel that those of
13 us who love it can best protect it and that has
14 been a position that we have maintained all along
15 here at the commission. I think that a couple
16 points that were made here that we certainly
17 would like to talk with the developers about
18 because I think what has been said by, I believe,
19 it was Commissioner Vowels and also by the
20 executive director Mr. Thar, I think those were
21 really right on target because as the mayor's
22 letter stated we were concerned with the
23 administrative action that was taken that set the

1 30th as the date as a deadline, and that was for
2 in the certificate of suitability to transfer of
3 deed back to the City of Gary and that we
4 still -- and I'm glad to hear that's going to be
5 held to. All of the other things that we hope
6 could fall in place with that being done, but I
7 think that was a part of the mayor's whole
8 argument when he was here in June is that there
9 were things that had to be done so that Gary
10 would be able to protect their investment, if you
11 will, and that's what we have been attempting to
12 do, and I'm certainly glad to see that the
13 Commission has taken the position that they've
14 taken today, and I would hope that the two
15 developers will come to some kind of agreement of
16 understanding between them because if they don't
17 I think exactly what was mentioned should happen
18 should happen because that's -- we treat the
19 project as a seamless project. There are two
20 boats out there, but we treat it as an equation
21 that has X plus Y is equal to Z, and we're
22 looking at the Z of this because that's what Gary
23 is depending upon, and we've been looking at it

1 since the inception of this project and we just
2 want the equation to be balanced. We want the X
3 plus Y to equal the Z that's been promised in
4 that equation, and again, I want to thank you for
5 giving us this time to come before you, and if
6 there's any need for us to come back before you
7 today and it concerns any legal documents or any
8 areas of legal controversy, we have two of our
9 attorneys here that would take it from here.
10 Thank you so much.

11 CHAIRMAN KLINEMAN: Let me just say
12 before you leave that I feel personally obligated
13 to Mayor Barnes to make sure that the deed does
14 in fact pass the city because that was the
15 premise on which we operated on June 30th. We
16 had to get it over that initial hurdle, but it
17 was always my intent to make sure that the deed
18 did in fact in the name of the City of Gary
19 because that was where we thought it should be,
20 and so we're going to go forward on that basis.
21 Anybody else have anything? Excuse me. Go
22 ahead. Did you want to say something?

23 MR. RICHARD COMBER: The last thing I

1 want to say and, again, I heard that the
2 developers had gotten together, but I do want to
3 say that -- you all have gotten together. We do
4 not have everybody's money in regards to the
5 \$6,750,000. Now, I just want to make that clear.
6 We don't have that.

7 MR. THAR: When the Commission sets
8 deadlines, should they do so in this particular
9 case, it sets them to have things accomplished,
10 not to give leverage to one party or another. We
11 assume the City of Gary is going to hold the type
12 of leases that have already been drafted
13 regarding each of these and not visualize this as
14 a leverage point. The city has acted absolutely
15 professionally since June 30th and should be
16 commended for that. Going to hold the city to
17 that type of high professional actions.

18 MR. RICHARD COMBER: And we will hold to
19 that. The only leverage we want is to be able to
20 have some say-so over our family. Our family
21 happens to be Gary, Indiana, and there is no
22 other leverage we want other than that. I can
23 promise you that that's the only place we've been

1 all the time is we want that to happen.

2 CHAIRMAN KLINEMAN: I join in with what
3 Mr. Thar said. Apparently there's a basic lease
4 been negotiated and is in existence, a basic
5 lease has been negotiated and is in existence,
6 and now all we have to do is get Mr. Barden's
7 input, which I presume would be on a positive
8 nature, so that even the Trump attorneys would
9 agree that the suggestion that you're making
10 probably should be in the lease and likewise with
11 Gary that we're still talking about a dollar a
12 year lease for whatever terms was represented and
13 just what the usual terms that should be in that
14 type of document.

15 MR. RICHARD COMBER: Absolutely. Our
16 equation has not changed. Z the on the side of
17 our part of the equation is the same as it always
18 been and that's the developer's prerogative to
19 deal with the X and Y.

20 CHAIRMAN KLINEMAN: I talked too long.
21 Now your attorney wants to talk. You want to
22 identify yourself for the record.

23 MR. MCCARTHY DRAKE: We just wanted to

1 make sure the Commission knows -- my name is
2 McCarthy Drake, special counsel for the Mayor of
3 City of Gary. I just want to make sure the
4 Commission and everybody knows that we really
5 haven't completed the negotiation of the lease so
6 I don't want you to think that was done.
7 Signatures that need to be done. We have worked
8 very hard with the Trump organization and their
9 lawyers. Trump has indicated with regard to the
10 terms but we actually have not come to on all the
11 terms and of course we would look forward to the
12 developers having gotten together working equally
13 hard Mr. Barden's attorneys in that regard. I
14 just want the Commission to think that is just a
15 formality. I think the general concept or Mr.
16 Thar mentioned with regard to 99-year lease at
17 one dollar and the lease terms to expire with
18 the -- if and when one of the developers does not
19 have a license. I think those general parameters
20 would apply and we intend to adhere to that, but
21 there are other terms much smaller in character
22 that we still have to hash out, and I believe we
23 will. Just wanted to make the sure the record is

1 clear.

2 MR. THAR: It's my understanding that a
3 lease and the terms of that lease have been in
4 essence reached by the Trump organization already
5 and are very close to being agreed to by the
6 Barden organization. My position is very simple.
7 Since the city was working on that draft of the
8 lease initially with the Trump people and
9 recently with the Barden people, but the
10 principles as set forth in that lease are going
11 to be the same principles should this Commission
12 set a deadline.

13 MR. McCARTHY DRAKE: We expect
14 absolutely the principals would be the same. We
15 look forward to working with both parties as co-
16 tenants in that regard, but we just wanted to
17 make sure when you say the terms of the lease
18 having been worked out entirely with the Trump
19 organization, I think we are close but there are
20 some terms that are not and we intend to work on
21 those. As I said, I think we can accomplish
22 that.

23 MR. THAR: Bottom line very simply saying

1 let's not take advantage of the deadline.

2 MR. McCARTHY DRAKE: We all intend to
3 work in good faith on in that regard.

4 MR. RICHARD COMBER: Did I hear, Mr.
5 Thar, did you say you are setting a deadline?
6 Because we do want a deadline.

7 MR. THAR: I'm saying if they should set
8 a deadline don't take advantage of it.

9 MR. RICHARD COMBER: I understand.
10 Okay.

11 CHAIRMAN KLINEMAN: It almost occurs to
12 me now that maybe we need between now and 9/29 we
13 need some updates to you, our executive director,
14 as to where people are, both the lease. Stick
15 around, Jack. They'll be reporting to you.
16 We're going to get to you in a second. Does
17 anyone else have anything of Gary? I let them
18 get away. If not, then we're prepared to hear
19 from the Trump organization.

20 MR. DON TABBERT: Don Tabbert, counsel
21 for Trump. I thought perhaps we talked about it.
22 Maybe we could be a little briefer. I think
23 you've heard the positions that have been given

1 and there's a few things that need to be said.
2 We work with members of this commission and in
3 addition to representing Mr. Trump, I have an
4 obligation to this commission. As a lawyer
5 that's my responsibility. I think that it is
6 unfortunate, Mr. Chairman, whether we see the
7 slide show or not, it's very unfortunate if in
8 fact because of this most recent disagreement --
9 we've had disagreements with Gary. Now
10 disagreement between the two developers. That
11 the members of this commission are not informed
12 of the substantial number of things that have
13 taken place in the last 60 to 75 days. I've
14 heard Mr. Thar talk about Evansville on several
15 occasions. In the last 60 to 75 days there have
16 been a substantial number of things done by the
17 Trump organization up in Gary. That's not window
18 dressing. The slides would quickly show it in a
19 few minutes. Unfortunately as this discussion
20 went forward it got off on the point that there
21 was a disagreement, and I'm not about to say that
22 it wasn't legitimate. You heard impassioned
23 statements made here, but there is -- you asked

1 me earlier during the recess could the parties
2 get together. We in fact did exactly what you
3 said. We went outside, made a presentation to
4 Mr. Barden. Apparently that was rejected, but at
5 least I want the record to show that we did that
6 and it was a very substantial concession that the
7 Trump organization made. I don't want that to be
8 lost sight of. Mr. Barden has apparently
9 rejected that and he has made clear, I think,
10 what his position is. Another thing I'm not
11 clear on, Mr. Chairman, I have to mention it now.
12 If we're talking about a September 29th deadline
13 I want to comment on that too. I thought I
14 heard, but I could be wrong, that the \$6,750,000
15 has already been paid to Gary in escrow. I'm
16 unclear as to whether that statement was made.
17 I'm also unclear after I heard the deputy mayor's
18 comments as to whether in fact that actually did
19 happen. I don't know whether the \$6,750,000 was
20 in fact delivered, and we need to know that if
21 we're faced with a negotiation time of about
22 three weeks.

23 CHAIRMAN KLINEMAN: Let's just say if it

1 isn't there, it obviously will be made good by
2 Mr. Barden's representations that he previously
3 made just a couple minutes ago to his willingness
4 to pay the \$6,750,000, his willingness to have a
5 date set at which both parties will produce
6 documents showing their expenses in connection
7 with the land and that as of the end of that day
8 then if money is still owed, that there isn't a
9 complete offset, then whoever is short will write
10 a check. Mr. Barden has said it will be me and I
11 will write the check. That's where we are as far
12 as I'm concerned.

13 MR. DON TABBERT: I was just trying to
14 comment on what I thought was a statement that
15 the \$6,750,000 had already been paid to the City
16 of Gary.

17 CHAIRMAN KLINEMAN: We're going to go
18 forward.

19 MR. TABBERT: As far as the date of
20 September 29th is concerned, I agree completely
21 with Commissioner Vowels. I think that it's time
22 to stop talking and arguing and let's put the
23 truth on the table as to exactly what's happened.

1 My experience having represented the Trump
2 organization now for close to two years on this
3 matter tells me that that's a very very short
4 period of time. We were talking about getting
5 Gary and the two developers and now we have a new
6 developer in effect and to be able to try to
7 accomplish that by September 29th, and I'm not
8 speaking just because I'm saying it's a burden on
9 Trump. We've had problems before with deadlines.
10 It seems to me that is an awfully tough narrow
11 period of time to be able to say that all this
12 can be done. Right now, Mr. Chairman, the plan
13 has been that by April, as far as the Trump
14 organization is concerned, there would be a boat
15 and we would be functioning. We walked into this
16 meeting not changing whatsoever. We didn't have
17 any sense of pessimism to progress in the last
18 few months was in fact going to do anything but
19 actually caused that to come about. Now there
20 have been disagreements in the past. There's a
21 disagreement apparently between the two
22 developers right now. I have no reason to
23 believe that that cannot be resolved, but I hate

1 for it to cast a pall over everything as if
2 nothing good has been happening up there because
3 that is not true. There's been a lot of good
4 that's been happening up there. I don't know
5 what the standard we decide what is good or not
6 but, I want the chairman and the members of this
7 commission to know that we can tick off item
8 after item in the past eleven or twelve weeks and
9 they shouldn't be overshadowed by the almighty
10 dollar.

11 Having said all of that, I want you to
12 know that from my standpoint this organization
13 and Mr. Trump in particular have been in good
14 faith. You may or may not disagree with the fact
15 that he thinks that he's entitled to a
16 commission, but no one can really disagree with
17 the fact that may have been in good faith to
18 embody what Commissioner Vowels stated which is
19 to get it done for the people of Gary. That has
20 never changed, Mr. Chairman. Never has that
21 changed as far as the Trump organization is
22 concerned. A record needs to be clear on that.

23 CHAIRMAN KLINEMAN: Mr. Tabbert, you

1 understand that this commission at this point in
2 time wants to set deadlines.

3 MR. DON TABBERT: I know that.

4 CHAIRMAN KLINEMAN: Since you have made
5 the argument that September 29th is too soon,
6 give me another date.

7 MR. DON TABBERT: I would take any day.
8 Like, for example, October 15th. I'm -- I'm not
9 coming to you and saying that over here we've
10 said that that's a tough date. I'm telling you
11 that from past experience -- and the members of
12 the Commission know this -- that when we're
13 dealing with these two entities plus the City of
14 Gary it's awful tough to get those things worked
15 out in a period of little less than three weeks.
16 I have to add one thing. For the past fifteen
17 consecutive weeks, Mr. Chairman, the Trump
18 organization has been working everyday, and the
19 record needs to be clear on that. We know what
20 they've been doing for the last fifteen weeks.
21 So we're fully prepared to go ahead.

22 CHAIRMAN KLINEMAN: By the way, I'm
23 willing to stay and see the show. I'm very

1 interested in it and all those commissioners who
2 wish to see it can stick around. I think we're
3 obligated to go forward with our next agenda item
4 before we see the presentation. If you hold the
5 presentation until we're done. We can come down
6 there and sit down and look at it because I would
7 be very interested in it and any of the other
8 commissioners.

9 MR. DON TABBERT: It's very short. It's
10 just a few slides. It has specific items, but it
11 categorically shows what's been done.

12 CHAIRMAN KLINEMAN: I think some very
13 substantial good things have happened up there
14 and I want to be aware of them.

15 MR. DON TABBERT: It's far more than a
16 ground-breaking. That was symbolic. I'm talking
17 about specific things that we can show that we've
18 done in the past three months. The answer to
19 your earlier question is just plain common sense.
20 To get a few extra days I just -- you all are
21 aware of it, that we've sat down and sometimes
22 had to work out problems, and it's been very
23 tough and to do it by September 29th --

1 MR. THAR: May I make a comment?

2 MR. DON TABBERT: Please do.

3 MR. THAR: Concept of a joint development
4 agreement has been in existence since December 9,
5 1994, has it not?

6 MR. DON TABBERT: The concept has been in
7 existence.

8 MR. THAR: Hasn't it been part of the
9 certificate of suitability?

10 MR. DON TABBERT: It has been.

11 MR. THAR: The deeding of the land to the
12 City of Gary, hasn't that been a part of the
13 certificate of suitability since December 9th of
14 1994?

15 MR. DON TABBERT: The answer to that
16 question is also yes. What about the intervening
17 factors that have occurred from the practical
18 standpoint?

19 MR. THAR: Weren't they all re-affirmed
20 on June 30th? The concept of saying that it's
21 too close because today is September 8th to get
22 something done that's been on the table, so to
23 speak, for almost ten months is just a little bit

1 strange.

2 MR. DON TABERT: Let me comment on that.
3 May I? May I respond to that?

4 MR. THAR: Yes.

5 MR. DON TABBERT: You know of the weekly
6 meetings that we had by telephone. You know of
7 the meetings. You know what took place in those
8 meetings month after month after month. The
9 parties were in fact diligent in trying to make
10 progress. You're aware of the impediments that
11 in fact occurred. I'm simply offering a
12 suggestion that instead of going through more
13 paper and having a problem with another deadline
14 that September 29th is cutting it very short.

15 MR. THAR: From where this commission
16 sits, it's certainly -- where the staff sits,
17 we've waited on it for ten months and can't set a
18 deadline now, when can we? What's going to make
19 things better?

20 MR. DON TABBERT: I'm just talking about
21 a few more weeks is all, from a practical
22 standpoint. There's nothing of substance. I'm
23 just saying that I think it's tough as of

1 September 29th.

2 MR. THAR: On June 30, 1995, it was
3 acknowledged by all parties, the city, the
4 Commission, and the two developers, that
5 September 30th was the date. All we're doing is
6 re-echoing that today.

7 MR. DON TABBERT: I understand that.

8 MR. THAR: Should the Commission decide
9 to go that route. And you are right. We have
10 been party, the staff has been party to a lot of
11 things that has not been brought out in this
12 public hearing. Based upon the staff's
13 understanding of the record as made over the days
14 of participating in it compared to the positions
15 taken by the two sides, I would say that neither
16 side did anything with regard to the accuracy of
17 the record other than slant in their favor.

18 MR. DON TABBERT: I'm talking about since
19 June 30th.

20 MR. THAR: I'm talking about any month
21 until today.

22 MR. DON TABBERT: I'm saying since June
23 30th the slides will clearly show.

1 MR. THAR: Nobody is going to argue, Mr.
2 Tabbert, that Mr. Trump's people have been on
3 that property making improvements. Mr. Barden
4 isn't even going to argue about that.

5 MR. DON TABBERT: I've made the point and
6 I'm simply saying to the members of the
7 Commission that September 29th, we set sail and
8 do our very best. I'm just saying from a
9 practical standpoint I think a couple extra weeks
10 makes better sense.

11 MR. THAR: From a practical standpoint,
12 to be realistic about this is that we're hearing
13 parties say we want to work this out. The
14 Commission says "All right, we're going to hold
15 you to a deadline we've already set," and now
16 they're saying we can't stick to it.

17 MR. DON TABBERT: Nobody is saying we
18 can't stick to it.

19 MR. THAR: Mr. Tabbert, you're saying
20 it's not enough time.

21 MR. DON TABBERT: That's different than
22 saying we can't stick to it.

23 MR. THAR: That's the same principle that

1 we've heard since December 9th. If you want to
2 subscribe to the position taken by Mr. Vowels, it
3 was give them a deadline. If they can't make it,
4 fine, choose two more.

5 MR. DON TABBERT: I do subscribe to the
6 original --

7 MR. THAR: All we're doing now is setting
8 a deadline.

9 MR. DON TABBERT: I only affect for the
10 Trump organization, Mr. Thar. I can't speak for
11 the other two entities, and I'm simply saying I
12 think it's a tough date. More important than
13 that, the points that I've made -- and I
14 appreciate the fact, Mr. Chairman, that this
15 commission might have a chance through the slides
16 to see exactly what has been done. To me that
17 separates the sheep from the goats. You'd look
18 at what's been done in the last ten weeks to
19 three months and you don't have to listen to
20 anybody's words. You'll be can see from those
21 slides what the Trump organization has done in
22 the last three months. Thank you very much.

23 COMMISSIONER VOWELS: I'm of the school

1 that deadlines are great great things. Operate
2 on deadlines. If you tell me I have to have
3 something due by tomorrow, I'll stay up all night
4 and get it done. We get to make the decisions
5 here. That's why our chairs are higher than
6 everybody else's in the room. I say September
7 29th and that's it and they can either take it or
8 not, and I agree with -- a baby could have been
9 conceived and come down the birth canal by now.
10 So deadlines are deadlines and that's my
11 position. Either do or we don't do it

12 MR. KLINEMAN: Anyone else have any
13 comments?

14 MR. RICHARD COMBER: Is that from the
15 commission or audience?

16 CHAIRMAN KLINEMAN: I was asking the
17 commissioners. Do you have something we've just
18 got to hear?

19 MR. RICHARD COMBER: I would hope that
20 you adhere to that date.

21 CHAIRMAN KLINEMAN: Alright. Thank you.
22 Any commissioners have anything further? If we
23 don't have anything further then what we need --

1 the record is that the certificates of
2 suitability for Barden-Davis and for Trump,
3 Indiana have actually been extended until
4 September 30th so we don't need any motion on
5 that. What we need is a motion to authorize the
6 executive director to grant an extension of the
7 certificates of suitability from both those
8 entities until January 31, 1996, upon the
9 condition that prior to noon on September 29,
10 1995, that the executive director receive
11 evidence satisfactory to him that the property in
12 Gary has been deeded to the city, that a lease
13 with the joint venture has been executed by the
14 city and by the joint venture, and as I said
15 before, obviously that a joint venture agreement
16 amongst Barden and the Trump group has in fact
17 been entered into. Would there be any other
18 conditions?

19 COMMISSIONER VOWELS: Does that cover
20 everybody knows how much money everybody owes?

21 COMMISSIONER BOCHNOWSKI: That's their
22 problem. I mean that's for their accountants.

23 COMMISSIONER VOWELS: I don't want to

1 come back here and listen to this stuff in
2 October.

3 MR. THAR: The joint venture agreement
4 should have taken care of that. It's already
5 been a matter of record. The Commission has
6 always held, based upon the representations of
7 the developers and the city, that one half of the
8 land would be -- price of the land would be
9 split. The development costs would be split.
10 That's always been the Commission position. It's
11 always been a position of the applicants. It's
12 up to them to figure out the figures. One might
13 question the Commission having any type of
14 authority to set a dollar amount or negotiate any
15 other type payments beyond what has already
16 been --

17 COMMISSIONER VOWELS: I just want
18 everything tied up. As long as that doesn't
19 concern us --

20 CHAIRMAN KLINEMAN: I just don't think
21 we can get down and really make a figure today
22 because neither one of the parties have submitted
23 their bills to each other, and obviously at the

1 present time there's this question of premium
2 floating around there someplace, but the
3 Commission is just not in a position to get into
4 any of that. It's up to the joint venture.

5 COMMISSIONER SWAN: Does the joint
6 venture agreement simply apply to the development
7 or to the development and operations?

8 CHAIRMAN KLINEMAN: I think it was the
9 intent of the joint venture agreement it would
10 cover both the total operation. Am I right? It
11 was going to spell everything out. We were down
12 the road on that some time ago, but we've fallen
13 off a little bit, but I would --

14 MR. THAR: Maybe we should. My
15 impression was the joint venture agreement
16 regarding the developers would cover those items
17 that the developer decides between themselves
18 they wanted to cover. Minimum was to cover share
19 the expenses with regard to the shared aspects of
20 the development. What they wanted to do beyond
21 that is a point of negotiation between the two
22 entities.

23 DR. ROSS: And the Commission should not

1 get into that negotiation?

2 MR. THAR: I think what the Commission
3 has constantly taken the position of sharing of
4 those expenses which are joint to the
5 development. Like a parking lot or an entryway.
6 If they wish to go beyond that, I'm under the
7 impression that's between those two.

8 CHAIRMAN KLINEMAN: It was always my
9 understanding -- and maybe I'm mistaken -- that
10 included in this joint venture agreement, maybe
11 not in the agreement itself, at least in an
12 understanding that these boats would be in some
13 way operated so to maximize the income from both.
14 They both shouldn't leave at eight o'clock and so
15 forth. Whatever arrangements would maximize the
16 amount of money that could be generated by these
17 operations should in fact happen. If eight
18 o'clock is a good sailing time, then mine sails
19 Monday, Wednesday and Friday at eight o'clock and
20 yours does Tuesday, Thursday and Saturday at
21 eight o'clock. These are the type of things that
22 with occupying the same space at the same time
23 you simply have to work out. You just do.

1 COMMISSIONER BOCHNOWSKI: I think that
2 you -- probably both companies now understand
3 that if you get an agreement and everything in
4 order to meet the deadline, next time we hear
5 from you we do not want to hear that you still
6 haven't come to agreement on price, that you
7 still haven't come to agreement on management.
8 You're going to have to work that out. We're not
9 going to arbitrate.

10 CHAIRMAN KLINEMAN: I think I would like
11 one other thing, as I indicated before. I would
12 like the parties to notify Mr. Thar of their
13 progress on the 15th and on the 22nd of
14 September. Each of you should make arrangements
15 separately or jointly, if you finally get to the
16 place where it can be a joint phone call that
17 would really be good. Anyway, notify him as to
18 where you are on the 15th and on the 22nd of
19 September.

20 MR. THAR: If I may go along with that,
21 then I would ask the Commission to advise the
22 developers that eleven a.m. Indianapolis time on
23 the 15th there's to be a conference call between

1 the staff and the developers and the city.
2 Eleven a.m. Indianapolis time. First call be set
3 up by the Barden organization has the
4 responsibility of that conference call. Same
5 time on the 22nd, eleven a.m. Indianapolis time,
6 and the Trump organization will have
7 responsibility for putting together that
8 conference call that will include the city and
9 the developers and the staff, and if things are
10 not progressing, we will make calls to the
11 commissioners on Monday. What we'll do is advise
12 Friday afternoon on the 22nd we'll call the
13 commissioners and give them up an update.

14 CHAIRMAN KLINEMAN: I've sort outlined a
15 motion. Does anyone want to restate it or should
16 I restate it? The motion would be to authorize
17 the executive director to extend the certificate
18 of suitability for Barden and for Trump to
19 January 31, 1996, upon the condition that by noon
20 on September 29, 1995, that the executive
21 director receive evidence satisfactory to him
22 that the property has been deeded to the City of
23 Gary, that the City of Gary has executed and the

1 developers have executed a lease of that property
2 for one dollar for 99 years for the property and
3 that a joint venture agreement has been entered
4 into by Barden and Trump.

5 COMMISSIONER SWAN: Moved.

6 CHAIRMAN KLINEMAN: It's been moved and
7 second. All those in favor say aye. Contrary.
8 Motion is passed. And we thank you gentlemen.
9 I'd like to have the feeling that we've made some
10 progress today. It wasn't easy, but I would hope
11 that you and the Barden and the Trump groups and
12 the City of Gary will understand that we mean you
13 no ill will but we've got to keep this thing
14 moving or we are not doing the service that Mr.
15 Vowels said we owe to the citizens of Indiana.
16 So we thank you and we will move on to the next
17 agenda item. As I said before. Those who want
18 to give us the show, we should be done in 45
19 minutes or so. We've got one more agenda item.

20 MR. NICHOLAS RIBIS: I leave that up to
21 the Commission. We can do that the next time
22 through. I understand it's late in the day. I
23 think I can see that the commissioners would

1 rather -- it's a Friday afternoon. I understand,
2 Mr. Chairman. I appreciate the invitation, but
3 we'll pick that up next time.

4 CHAIRMAN KLINEMAN: Our next agenda item
5 is a request for Indiana Gaming Company, LP to
6 alter its plans for traffic flow to the site.

7 MR. PETER RUSTHOVEN: Mr. Chairman,
8 Peter Rusthoven with Barnes & Thornburg, counsel
9 for Indiana Gaming Company. Before describing
10 the agenda item, what we're requesting, there is
11 going to be some screen presentation here and I
12 wanted to know if the Commission's pleasure on
13 whether the Commission wanted to move down here
14 to see it or if people wanted to turn their
15 heads. Either way is fine for us, but I thought
16 I'd --

17 CHAIRMAN KLINEMAN: I think we'll go
18 down.

19 MR. PETER RUSTHOVEN: Then I'll just
20 move the mike out of the way here.

21 (Short pause in proceedings.)

22 MR. PETER RUSTHOVEN: Mr. Chairman,
23 while the gentleman is working on the slide

1 portion, let me just describe briefly the
2 proposal involving a change in traffic access
3 site plan to the Lawrenceburg casino. The basics
4 of the plan, I believe, have been previously
5 reviewed with commission staff by representatives
6 of the Indiana Department of Transportation.
7 They're also outlined in my letter to Mr. Thar of
8 September 6th, which I believe is probably in
9 your packets.

10 In a nutshell it is this. Of the
11 proposal that was reviewed with Commission before
12 involved Indiana Gaming acquiring the rights to
13 the Central Indiana Railroad right-of-way
14 basically from our casino site to the
15 intersection of U.S. 50 and I-275. On that
16 right-of-way would be constructed a dedicated
17 access road to the casino with an entry point off
18 a proposed off-ramp on I-275. Proposed changes
19 being discussed today would continue to involve
20 Indiana Gaming acquiring the Central Indiana
21 Railroad right-of-way, would continue to involve
22 building a dedicated access road along that
23 right-of-way to the casino location. However,

1 rather than having the entry point come off an
2 off-ramp at I-275, there would instead be major
3 improvements to the U.S. 50/I-275 intersection
4 that are made possible by our acquisition of the
5 railroad rights and there would be major
6 improvements to U.S. 50 from basically the
7 intersection to near the Lawrenceburg city limits
8 rather than it being expanded from four lanes to
9 five lanes which is what INDOT currently had
10 proposed it would be expanded to seven lanes.
11 The entry point to the access road would then
12 come off U.S. 50 at signalized intersection with
13 two signalized left turn lanes. It is our
14 understanding from the review of our engineering
15 people with INDOT that this would have major
16 traffic flow and safety benefits for traffic
17 throughout the region and that those benefits
18 would include not simply access to our casino,
19 but such things as commuter traffic and general
20 traffic throughout the area and safety would be
21 improved.

22 Briefly giving the outline here, let me
23 introduce the people who will be speaking first.

1 Jim Klausmeier of PFG Engineering Company will
2 describe far more detailed than I have just done
3 what we are talking about here. After that Tom
4 Long, who I think you will recall is the chief
5 executive officer of Argosy Gaming Company which
6 is our general partner, will speak after that.
7 Walt Land with INDOT who is the INDOT engineer
8 who is much familiar with this, and then finally
9 I understand that Tim Marrow of the Oxbow
10 organization wishes to speak briefly about this
11 as well. With that, turn it over to Jim. Thank
12 you.

13 MR. JIM KLAUSMEIER: My name is James P.
14 Klausmeier. I'm a partner in the firm of Pflum,
15 Klausmeier and Gehrum, consultants. We're
16 traffic engineers and transportation planners
17 with offices here in Indianapolis, Cincinnati and
18 the Cleveland area serving public and private
19 clients throughout the Midwest.

20 We were engaged by the Indiana Gaming
21 Corporation about a month ago to evaluate two
22 alternative plans for providing access to and
23 from the site and to recommend a preferred plan

1 that would best serve the interests of the
2 communities. Our analysis began with the review
3 of the existing conditions. In the foreground on
4 this slide is the intersection of U.S. 50 and the
5 ramps to and from I-275 which is just out of the
6 picture to the left of the screen. It's I-275.
7 U.S. 50 goes south from this intersection into
8 the Lawrenceburg area in the background. The
9 Indiana Gaming casino site is in the upper
10 left-hand corner. The railroad which is being
11 acquired by Indiana Gaming runs along the east
12 side of U.S. 50 but crosses it just south of the
13 intersection. INDOT, Indiana Department of
14 Transportation, has recently awarded a
15 construction contract to widen U.S. 50 from its
16 existing four lanes to five lanes through
17 Lawrenceburg extending -- but ending at the
18 railroad crossing. INDOT has no plans to improve
19 this intersection as a part of its current
20 project, the reason being the railroad is there
21 and complicates things. Of course, another
22 important feature in this slide is the
23 environmentally sensitive Oxbow area off to the

1 east.

2 The approved plan of the Indiana Gaming
3 Company proposes to construct a parallel -- a
4 partial interchange to serve its traffic which is
5 coming to and from I-275. A flyover bridge would
6 carry the inbound traffic from I-275 onto a new
7 roadway constructed upon the abandoned railroad.
8 The traffic returning to I-275 from the casino
9 would also use the new roadway and connect with a
10 ramp toward the east. Other traffic to and from
11 the site would use an entrance road that would
12 connect -- that would intersect with U.S. 50 near
13 the fairgrounds and connect through a short
14 distance with a flyover road. This entrance
15 would serve all the other traffic would not
16 otherwise use the flyover.

17 Superficially this seems like a good
18 arrangement because it would segregate some of
19 the Indiana Gaming casino traffic from the local
20 traffic. However, when the traffic associated
21 with the Rising Sun site is considered along with
22 existing traffic, the plan is deficient in two
23 points. One is that the main entrance connector

1 road up near Lawrenceburg would create two very
2 closely spaced intersections which will not
3 operate efficiently and will cause congestion.
4 One interchange would be with U.S. 50 and the
5 other intersection a short distance away would be
6 with the flyover road coming down the railroad.
7 But more significantly is the short distance
8 between ramp terminals on the I-275 connector.
9 This slide is taken from over I-275 looking
10 toward U.S. 50 and shows the flyover ramp leading
11 to the new road. The red area highlights 860
12 length between the ramp terminals. Within this
13 distance drivers from the two interstate ramps,
14 shown at the bottom of the screen, must merge,
15 read signs, make decisions and weave to either
16 exit at the flyover to the right or to continue
17 to the intersection to turn left. So we have
18 vehicles coming from Indiana and Ohio coming in
19 from the right of the screen and from Kentucky
20 they would be coming across the bottom of the
21 screen and into the picture. So within that red
22 area we have vehicles criss-crossing from the two
23 interchange ramps trying to get to the

1 destinations. These vehicles would be moving at
2 about 55 miles an hour and would have fewer than
3 ten seconds to accomplish these decisions and
4 movements. There's simply not enough distance to
5 enable the volumes of traffic to be accommodated
6 efficiently and safely, and there's a similar
7 situation for vehicles leaving the site which
8 must cross traffic coming from Lawrenceburg and
9 Rising Sun destined to I-275 off the screen. So
10 there is weaving condition both to and from the
11 site in that very short distance.

12 The alternative plan being recommended
13 to you today is not to build the flyover and to
14 not build the new road on the abandoned rail
15 line. Instead, the alternative plan will make
16 major improvements to the U.S. 50 intersection
17 made possible now because Indiana Gaming will
18 remove the railroad. Also, the alternative plan
19 will enlarge the scope of the current INDOT
20 project to further widen U.S. 50 from the five
21 lanes now planned to seven lanes. The widened
22 section would extend between this improved
23 intersection and the main entrance to the Indiana

1 Gaming casino near the fairgrounds and could be
2 constructed within the existing right-of-way
3 limits as shown by this slide. The right-of-way
4 is essentially defined by the utility poles along
5 either side and this enhanced slide shows three
6 lanes in each direction and in this case a
7 landscaping where there are no driveways to be
8 served but elsewhere that lane could provide the
9 left turns into the adjoining commercial sites.
10 This is how the road might look.

11 The improved intersection would have
12 triple left turn lanes from I-275 toward
13 Lawrenceburg and double free-flow right turns
14 from Lawrenceburg. These turn lanes would
15 accommodate the predominant flows of traffic to
16 and from Lawrenceburg and to Rising Sun.
17 Additional lanes would be provided on other
18 approaches as well. This simulation illustrates
19 in fast motion the existing peak traffic
20 movements plus the peak traffic associated with
21 both casinos, the one in Lawrenceburg and the one
22 in Rising Sun. The simulation shows that
23 although traffic does back up during red signal

1 indications on the various approaches, all the
2 traffic clears the intersection within one cycle
3 length because of the lane capacities and
4 configurations. The traffic signals and the
5 control system at this intersection would be
6 totally replaced with a modern actuated system
7 that will be responsive to the varying traffic
8 demands throughout the day, different days of the
9 week and so on. The level of the service at this
10 intersection without the flyover will be as good
11 or better than the unimproved intersection with
12 the flyover as originally planned.

13 It's therefore our recommendation that
14 the alternative plan be approved because of these
15 advantages. First, it provides a comparable or
16 better level of service at the various
17 intersections and along the various roadway
18 segments. Secondly, we've eliminated the
19 hazardous weaving on the interstate ramps.
20 Thirdly, significant improvements to the I-275
21 and U.S. 50 intersection will be made because the
22 railroad is removed, an improvement that I
23 believe INDOT would like to see happen anyway.

1 The alternative plan offers overall better
2 service for the entire community everyday of the
3 week, every hour of the day, not just serving the
4 casino site as the road on the railroad would
5 have. Lastly, but not lastly, the construction
6 can be expedited through the existing INDOT
7 contract by modifying the design and amending the
8 contractor's work. This could be accomplished
9 very quickly according to INDOT and, furthermore,
10 with this construction under way the maintenance
11 of traffic during the construction period
12 probably when both casinos would open, both in
13 Rising Sun and Lawrenceburg, would be facilitated
14 by a wider cross-section even during the
15 construction period because traffic could be
16 maintained more efficiently.

17 Finally, a benefit to the environment
18 would be that without the road having been
19 constructed on the abandoned railway we're
20 eliminating roadway runoff, road oils, salts and
21 so on into the Oxbow area that I described to you
22 earlier.

23 That concludes my remarks and now Tom

1 Long of Indiana Gaming will say a few words.

2 MR. TOM LONG: Thank you very much. Mr.
3 Commissioner, Members of the Commission, Mr.
4 Thar. Thank you for allowing us to present
5 today. I want to first of all say thank you for
6 the privilege of doing business here in Indiana.
7 We have been working diligently over the course
8 of the past 60 to 90 days with ourselves, our
9 engineers, INDOT and all of the Indiana buying
10 companies and people to bring a project to
11 fruition to you with as little complication as
12 possible. Mr. Thar has been quite helpful with
13 his staff and we really appreciate it.

14 What we're proposing is not change.
15 It's a realignment of the process. We are simply
16 still acquiring the railroad. We are improving
17 the Route 50 access. We're making a traffic
18 pattern flow a little better, and I think the
19 changes overall are changes that benefit the
20 entire area rather than having a dedicated road
21 just for Argosy. I want to emphasize one thing.
22 Our road will be dedicated coming into the casino
23 will be accessed public road will be used mostly

1 coming into the casino when we come off 50. That
2 will still be used as a primary drive-through
3 into our casino project. But I think what we're
4 trying to do here is accomplish a better traffic
5 pattern and flow for the entire area, and one of
6 the real side benefits as well is it's really a
7 better pattern when you consider the Rising Sun
8 volume that will be coming down 50 as well. The
9 dollars we'll be expending will be exactly the
10 same approximately. The properties we'll be
11 using will be approximately the same, and what
12 we're really doing is re-configuring the pattern
13 of traffic.

14 I'm going to turn it over at this time
15 to Mr. Land from INDOT to explain their view of
16 our plan for you. Mr. Land.

17 MR. WALTER LAND: Mr. Chairman, Members
18 of the Commission, the engineers for Indiana
19 Gaming presented their original concept to us
20 that they had presented to you at your hearing.
21 In fact, I had seen the rendering of it in the
22 back of the auditorium and was quite taken with
23 it because it seemed before it was awarded to

1 Indiana Gaming. It was a very innovative plan.
2 It will impact 50 and it seemed like a good plan.
3 As things proceeded you did award this particular
4 license to Indiana Gaming. Our present contract
5 on U.S. 50 doesn't go from 275 to the limits of
6 Lawrenceburg. It goes all the way over to
7 Aurora. The concept here, we had a safety
8 problem here where we had approximately one --
9 these people had one rear-end accident
10 approximately every 24 to 25 hours, half of which
11 were bodily injury. That was a reason we had an
12 accelerated contract on U.S. 50 to try to
13 alleviate this problem. It did, however,
14 increase the volume of traffic on there --
15 capacity for volume of traffic 25 percent. Well,
16 the consulting engineer brought that initial plan
17 to us. It wasn't a week later that they came
18 back with an alternate plan. I think it evolved
19 from the fact that the decommission of the
20 railroad is going to take longer than they
21 anticipated. It was going to take 18 months to
22 maybe 24 months. It could have happened as early
23 as four months. So they looked -- in fact, I

1 looked at it in the garage. We met early in the
2 morning. Just happened to run into each other,
3 and he showed me this plan and I told Jim I
4 really don't like it, Jim. The first thing was I
5 bird-dogged the U.S. 50 job and we have a
6 completion date on it of September 1st of next
7 year. I didn't see it impacting that and I liked
8 the other, but he persisted and I showed it to
9 the chief engineer. He didn't like it either.
10 But they brought their traffic study that Jim
11 Klausmeier did and so we listened to them and
12 reluctantly and said we will consider it. Then
13 we turned to over to our traffic engineers and
14 detailed analysis proved the chief engineer how
15 very wrong what we liked the original concept was
16 not safe at all. There was not enough room
17 coming off 275 to sign it properly. We were
18 worried about the traffic seeing the signals
19 there at the junction of 50, but we could raise
20 the bridge. That was no problem. But it just
21 didn't work. The numbers didn't work. This is a
22 good plan. We do approve this with certain
23 conditions. Argosy or Indiana Gaming as part of

1 our consideration of the second plan said they
2 would fix the present railroad right-of-way or
3 railroad grade to bring it to 100-year flood
4 level so that the town of Greendale would develop
5 that land and have a lower insurance rate which
6 they don't have now.

7 One of the other concerns we have is
8 that -- let me back up here. First of all, they
9 are paying for all these improvements, whatever
10 they negotiate under our supervision with our
11 contractor will be paid to us directly for the
12 project. It's going to be the same as before.
13 This is our normal concept with developers. We
14 have this on U.S. 50 with the Wal-Mart, what
15 would improve their properties.

16 The last thing was Segrams which is a
17 vital employer and also a group that impacts our
18 traffic very much. They would have -- I forget
19 the number of trucks, but if they did not have
20 continued rail service after Indiana Gaming buys
21 the Indiana Railroad, that would take 3.5 trucks
22 for each railcar or approximately 17,500
23 additional trucks would be impacting U.S. 50.

1 That's not acceptable to us. So we added that to
2 our requirements in endorsing this. As an
3 engineering concept it is very good, but we have
4 those conditions. They agreed to the one to do
5 this for Greendale who will be impacting with the
6 traffic control and so forth there. We want to
7 make sure that we don't impact with the other.

8 Our mission statement in INDOT is not
9 only to provide a transportation system that will
10 safely provide economic benefits to the people of
11 the state. Under that concept we recommend.

12 MR. TOM LONG: Thank you, Mr. land. I do
13 want to clarify one thing about the levee issue
14 at the City of Greendale. We have been meeting
15 with the City of Greendale, and the railroad
16 property that would be abandoned would be
17 available to be utilized as a levee, additional
18 levee for the City of Greendale. We have not
19 committed to the city that we're going to build
20 them a levee. Discussions have been made, have
21 been discussed about what it would take to raise
22 the level. We had talked about potentially
23 raising the level to ten inches, but there are

1 other issues related to FEMA qualifications for a
2 levee that we have never made a commitment to do
3 ourselves. We are discussing the issue with the
4 City of Greendale. Paul had a meeting with them
5 as early as -- today is Friday. It was Thursday
6 or Wednesday. But that railway property will be
7 available to be utilized by the city somehow to
8 try to improve that development on their site.
9 We want to be clear about that issue. Otherwise,
10 Mr. Land's statements are accurate. We believe
11 this program is a safer one for the community, is
12 one that effectively moves traffic in and out of
13 our facility very well and overall benefits the
14 residents in that area very greatly. Thank you
15 very much. We're going to turn it back over to
16 Peter.

17 MR. PETER RUSTHOVEN: The other
18 gentleman who wanted to speak is Mr. Mara from
19 Oxbow.

20 MR. MARA: Members of the Commission, I
21 know you've had a long day so I will try to be
22 very brief. You'll recall at the licensing
23 hearings we spoke and gave you our observations

1 about the various applications before you at that
2 time and we told you then that we were
3 disappointed that Argosy did not have a
4 mitigation plan for the wetlands. I'm pleased to
5 report to you that there's been a complete
6 turnaround. Argosy has been very cooperative
7 since you awarded the certificate of suitability
8 to them. They've met with us frequently and
9 constant contact by telephone and in writing
10 regarding the environment, so we're pleased to
11 report that to you.

12 With regard to the mitigation plan,
13 they're actively developing that and we expect to
14 be able to reach some accord with them in that
15 regard. The only thing I can report to you on
16 that as a side issue is that you'll recall that
17 their site development is a third of the
18 conservancy district property on the river and
19 their mitigation area is the third of the
20 conservancy furthest away from the river. The
21 middle third is presently unaccounted for, if you
22 will, and we think it's very important that be
23 part of the mitigation area so it's preserved

1 permanently. It might include a conservation
2 easement for Oxbow over that area.

3 To deal with the access question before
4 you this afternoon, you will recall, of course,
5 that we said earlier we could work with Argosy on
6 the flyover plan, the new highway plan, although
7 we weren't happy with it, we were going to be
8 cooperative and work with them. Now that we see
9 the new highway proposal we're more happy with
10 this proposal because our concern with the
11 flyover was that it was on a raised embankment,
12 the railroad embankment. Can't quite see it in
13 that picture. An embankment meant that the new
14 highway would have been visible from the Oxbow
15 wetlands, and part of our study that we mentioned
16 a year ago concluded that the visibility of human
17 activity to the creatures in the Oxbow wetland
18 was a very negative things. So being on top of
19 the embankment would have meant visibility to the
20 Oxbow wetlands. Also, there was concern that the
21 highway being on top of the embankment would
22 create noise and light impacts which would also
23 affect the natural wildlife in the Oxbow area.

1 We were concerned as Mr. Klausmeier referred to
2 the runoff from the raised highway flowing down
3 into the Oxbow wetlands, the salts and the oils.
4 Lastly we were concerned that with the highway
5 being visible to the Oxbow wetlands that some of
6 the owners of those properties might have
7 improved access and develop that property which
8 really ought to be used nothing other than
9 agriculture.

10 So those were our concerns and for
11 reasons not related to Oxbow you just heard the
12 traffic people talk about they've opted for this
13 new idea of seven lanes, and we have to tell you
14 that in terms of the impact on the environment,
15 the seven-lane proposal is superior to the
16 original flyover plan. It eliminates all those
17 concerns we talked about. In fact, the raised
18 railroad embankment will now serve as a buffer
19 between the traffic and the wetlands. There
20 won't be the visibility question. We won't see
21 the light at night from the traffic. We won't
22 hear as much of the noise and presumably the
23 water will flow the other direction from the

1 street surfaces with the salts and the oils. So
2 it appears to be a superior plan.

3 Unrelated to your question which traffic
4 way to go, I only want to report to you that we
5 are concerned about the use of the railroad
6 embankment for a levee to protect the area of
7 Greendale to the right on your screen here. This
8 will be true whichever plan you went with because
9 we're concerned that the people of Greendale, the
10 officials and the conservancy district, don't
11 realize the potential still for environmental
12 impact in terms of drainage. So we alert you at
13 this time. I know it's not the subject of
14 today's discussion. We'll alert you to that
15 concern and we'll communicate again with you in
16 the future. We heartily endorse the alternative
17 highway plan.

18 MR. PETER RUSTHOVEN: At this time I
19 don't know if you want to go up top or stay here
20 in case there are other questions if you have
21 that may relate to this, but we're prepared for
22 questions.

23 CHAIRMAN KLINEMAN: We'll stay here.

1 Any other commissioners have any questions of any
2 of these gentlemen? I have one of Mr.
3 Klausmeier, if I may. I haven't been told what
4 it's going to look like a signalized
5 intersection, how many turn lanes.

6 MR. JIM KLAUSMEIER: Just so happens we
7 have that slide, if I can find it. In the
8 interest of time we consolidated our presentation
9 quite a bit.

10 CHAIRMAN KLINEMAN: I appreciate that.

11 MR. JIM KLAUSMEIER: I think we have that
12 simulated as well if you'd like to see it. That
13 does show -- the north is to your right. U.S. 50
14 is there and the flyover road, were it to be
15 built, is the lower road, and the problem we see
16 in this configuration is the short distance
17 between those two intersections. Instead of
18 that, the intersection would look like this and
19 you can see the three southbound lanes on U.S.
20 50. One of those lanes would become a left-turn
21 lane into the site and the center lane would also
22 be a left-turn lane. So at this point we've got
23 double left turn lanes going into the casino site

1 and two through lanes which would continue south
2 on U.S. 51 -- south on U.S. 50 to rejoin the
3 existing cross-section that INDOT is proposing.
4 So it is at this intersection where we transition
5 back from the seven lane section into the project
6 that's being proposed now for construction by
7 INDOT. So you see this new intersection here
8 looks, drives and feels a lot better than the
9 other one. Outbound traffic from the casino
10 would have double right turn lanes, and because
11 we're adding an additional lane on U.S. 50 toward
12 the right, the traffic from the site would flow
13 freely into that new lane. So this intersection,
14 we have simulated it and I don't know that you
15 want to see it, but it performs very well as
16 well.

17 CHAIRMAN KLINEMAN: The only other thing
18 I've got a question on the 275 connector, what
19 are you doing there? Anything? How do you
20 create the two left lanes? I'm talking about the
21 275 connector. What's that going to look like
22 with the two left turn lanes onto U.S. 50 and
23 whether or not there is a problem on the area

1 where people are trying to get over to do the two
2 left turns?

3 MR. JIM KLAUSMEIER: There are two left
4 turns up there, two exclusive left turns. The
5 third lane also would accommodate the low volume
6 of through movement going on across the street,
7 but essentially it would be a triple left during
8 the peak hours, and there is a wide median in
9 there that currently contains a safety wall and
10 that area would be reconstructed as a part of
11 the --

12 CHAIRMAN KLINEMAN: What about off 275?

13 MR. JIM KLAUSMEIER: No.

14 CHAIRMAN KLINEMAN Is that a safe
15 program?

16 MR. JIM KLAUSMEIER: Yes, because -- if I
17 can find that slide. Because we have the great
18 distance now. I don't recall that distance but
19 maybe somebody else does. We have probably a
20 quarter of a mile between those ramp terminals
21 coming off of 275 and the improved intersection
22 which is a much greater distance than the 800
23 plus feet that we had under the flyover

1 situation.

2 CHAIRMAN KLINEMAN: Anyone else have any
3 questions?

4 COMMISSIONER MILCAREK: I'd like to know
5 about this railroad again. What is the timetable
6 and how is that going to impact if it was going
7 to disrupt and require so many more trucks and 18
8 months to build that? How were you going to do
9 that without this construction?

10 MR. JIM KLAUSMEIER: I'll defer.

11 MR. TOM LONG: The whole question, if you
12 would, please.

13 COMMISSIONER MILCAREK: What are you
14 going to do with the railroad? We're not going
15 to abandon it at first because it would take 18
16 months.

17 MR. TOM LONG: That plan has not changed
18 at all. We are acquiring the railroad. It will
19 be abandoned but proceed along as we have always
20 planned.

21 COMMISSIONER MILCAREK: What will the
22 timetable be for the railroad either be in or out
23 of operation?

1 MR. TOM LONG: The abandonment process is
2 a federal process. It's controlled by the
3 Department of -- ICC. That process can be as
4 short as four months; it can be as long as
5 potentially 18 months. We believe in -- our best
6 estimate right now is that process should be
7 completed on or about May 1st of '96. That's
8 what we're shooting for.

9 COMMISSIONER MILCAREK: Does that mean
10 there will be a large generation of truck
11 traffic?

12 MR. TOM LONG: Let me be clear about
13 something. Rail service is going to continue to
14 Segrams period. That is not going to -- they are
15 going to continue rail traffic. Traffic rights
16 are being worked out between CSXC and CIRR. Rail
17 service is not being inhibited in any way. Mr.
18 Land was talking theoretically if that happens.
19 That is not going to be interrupted at all.

20 CHAIRMAN KLINEMAN: You're buying the
21 railroad and abandoning it but that's not the
22 Segrams railroad?

23 MR. TOM LONG: It's a piece that they

1 use. What they are going to do is re-route that
2 rail traffic over CSX tracks which are different
3 tracks, and they'll just rent the CSX tracks and
4 service Segrams that way.

5 CHAIRMAN KLINEMAN: That's a
6 satisfactory program at Segrams?

7 MR. TOM LONG: We've been working with
8 them very closely. We've had meetings with them.
9 We've been working with everyone, Mr. Chairman.

10 MR. ANDY LIGHT: Segrams is here. I'm
11 Andy Light with Scopelitis, Garvin, Light and
12 Hanson, Segrams. You've asked some very good
13 questions and ones we're not sure we have the
14 answers to because, as you know, this is
15 something that has just come up as far as a new
16 route. And certainly it is a federal procedure.
17 We've heard there's -- certainly there's some
18 negotiations going on, but we have nothing in
19 writing. CSX certainly is kind of sitting back,
20 I would say, and wondering where all these cards
21 fall out. As far as Segrams is concerned, our
22 position is we have no problems with the routes,
23 but we desperately need rail service. It's

1 critical to our operations and we're kind of
2 sitting on the fence right now where it's not
3 that easy. There's other players involved such
4 as CSX. Whether Central and CSX can reach an
5 agreement that's agreeable to Segrams, we've
6 heard that they're talking, but I know for a fact
7 that no agreement has been reached, and CSX is
8 kind of sitting back waiting for some other
9 things to get done. So our goal and need is to
10 get continued rail service at existing levels.
11 Whether or not that happens is still in
12 negotiations. Segrams certainly recognizes that
13 problem, but it is a federal issue. If we don't
14 get rail service, as I think Mr. Land said, truck
15 traffic is going to be a huge safety problem. If
16 we can't get the rail service we need to keep the
17 facility production going, we would have no
18 alternative but to go ahead and oppose the
19 railroad abandonment, which we're all trying to
20 work together and not having to do that, but
21 there's some people here such as CSX and Central
22 it's a little hard just to say there's not going
23 to be any problem because we don't know.

1 MR. TOM LONG: The abandonment process is
2 an issue under either traffic plan and it's there
3 under either plan. We recognized that where
4 everybody is working closely with Segrams, CSX,
5 CIRR, we're all working together. It's one of
6 those issues we believe will be resolved we
7 believe.

8 MR. ANDY LIGHT: As Mr. Land said, one
9 of the conditions is that they make sure that
10 Segrams continues service. So as long as that's
11 one of the conditions, Segrams is fine with that.

12 CHAIRMAN KLINEMAN: We can't really make
13 it a condition. As Mr. Long has just said,
14 apparently the purchase and the abandonment of
15 that railroad track at least for that business
16 from the connector over to the property or to the
17 access is going to happen regardless of seven
18 lanes or the flyover.

19 MR. ANDY LIGHT: I agree with that, but
20 I guess what Segrams is saying is whether or not
21 we can get rail service depends on negotiations
22 with CSX and Central, and that's not finalized so
23 Segrams doesn't want to sit here and say

1 everything is hunkey dory. We hope it's going to
2 be.

3 CHAIRMAN KLINEMAN: We certainly
4 encourage Mr. Land if it's not acceptable to U.S.
5 50 to pick up another 17,000 trucks a year. So
6 if there's anything we can do, fine, but I don't
7 think it's really before our commission as such
8 at this point in time. I think maybe that needs
9 to go to the ICC or somebody.

10 MR. ANDY LIGHT: That's the point. If
11 we do not get a railroad agreement that is going
12 to allow us to keep up with production schedules,
13 we would probably have to protest to the ICC,
14 which all of a sudden I heard Mr. Land say it was
15 critical to have the railroad abandoned for the
16 ramp on 275 and 50. We want to cooperate, but
17 conceivably if we had to protest and that moves
18 schedules back, then this whole plan does have
19 some problems.

20 CHAIRMAN KLINEMAN: If you don't have
21 anything else. The Town of Greendale, not a
22 city.

23 MR. JACK BRAUN: I'm Jack Braun. I am

1 president of Greendale Town Council. This change
2 that is being requested today is a significant
3 change from what was presented in June and
4 probably why Argosy got the license because back
5 in April I was in front of the same commission, a
6 little bit more nastier than I am tonight, but we
7 requested that the traffic stay off of U.S. 50,
8 that there be a road put on top of the levee and
9 the levee be raised to meet the 100-year flood
10 plane of FEMA. We felt that when that license
11 was issued, one of the reasons it was issued is
12 because we sent a letter up here saying that we
13 had discussed it with the mayor. We had the
14 general manager of Segrams sign it that there was
15 an agreement. Now all of a sudden, there is a
16 change. Maybe that change isn't necessary, and
17 I'm not here to say don't change. I'm here to
18 say give us time. 25 percent of our tax revenue
19 comes from Segrams, which Segrams is not assured
20 right now that they have rail service. The other
21 75 percent of our tax money comes between I-275
22 and right there where the turnoff is into Argosy.
23 We need time to digest this. I have talked to

1 Argosy and Mr. Land. They are coming to our
2 council Monday, this coming Monday, September
3 11th. Needless to say, my phone has been ringing
4 off the hook with the businessmen and people
5 concerned about the levee. We were under the
6 impression that the levee was going to be totally
7 funded by whoever got the license because there
8 would be a road there. I know Argosy disagrees
9 with that. I don't know where that stands. I
10 assured them that I am not -- I am going to work
11 with them, but we need time. I would like to be
12 able to have about two weeks so we can write back
13 and say, yes, Greendale accepts it or here it's
14 problem. With the 18 months on the levee, being
15 a problem to get gaming started, what do you
16 think 18 months is going to be if the railroad
17 tracks if that is not a hot issue and it doesn't
18 have -- taking care of Segrams problem or is 18
19 months going to come into two years before we
20 have it for a levee or five years? I think there
21 should be some kind of agreement that that levee
22 is taken care of, and the seven lanes, I feel
23 that that is workable. We have to get with

1 Argosy and we have to get with INDOT. We got
2 businesses that are very concerned about how is
3 their customer going to get to their business.
4 Right now it was an excellent presentation how to
5 to get to 275 to the gaming very fast. All in
6 between there was the businesses. That seven
7 lanes is only in the town of Greendale. Once
8 again, Greendale is going to get the blunt or
9 possibility get the blunt while everybody else is
10 sharing revenue. It does not really help Rising
11 Sun. There's not going to be seven lanes from
12 the beginning of Lawrenceburg all the way down to
13 Aurora. That's only going to be five lanes.
14 Seven lanes is only in Greendale. I request that
15 you give us the opportunity that our businesses
16 can hear Argosy and Mr. Land speak September
17 11th. Let us review it and I will get back to
18 you with a letter any date that you would set.

19 CHAIRMAN KLINEMAN: Any questions?

20 MR. PETER RUSTHOVEN: I appreciate Mr.
21 Braun coming here and I appreciate the tone in
22 which he's addressed the Commission. I think
23 he's working in good faith for the interest that

1 he represents and his concern for his town, soon
2 to become a city. Couple of points with respect
3 to the timing and what Mr. Braun just said.
4 First with respect to Rising Sun, there's no
5 question that traffic going to that casino, that
6 traffic going to that casino, at least a portion
7 of it, is going to come through this
8 intersection. That is a connecting point. If
9 you're coming from the north coming down 74 off
10 Route 1 to get to that intersection I only know
11 that because I've been going to Lawrenceburg a
12 lot. If you're coming from Ohio or Kentucky,
13 that's one of the ways to go. So improving that
14 intersection is unquestionably important to
15 Rising Sun. I'm not a traffic engineer. That's
16 just sort of my lay impression. As you heard Mr.
17 Land who is a traffic engineer say, that one of
18 the issues he reviewed and that they considered
19 was the fact we now know, which we did not know
20 on June 30th, which was one of the most stunning
21 days in my life and dramatic events I've ever
22 seen, anybody who thought they knew where the
23 casinos were going to be before June 30th was

1 kidding himself. That was a decision obviously
2 made that day. We now know where those casino
3 locations are, and one is in Rising Sun down the
4 road on 50. So the intersection makes a
5 difference there. Second, with respect to the
6 Segrams point which we talked about before, it is
7 true that rail service to Segrams is very
8 important. In terms of the proposal that's
9 before the Commission today, this is an issue
10 under either road plan. Under either road plan
11 the railroad abandonment is something that has to
12 be taken care of and in the proper way. We have
13 tried very hard. I guess people are used to
14 lawyers patting their clients on the back, and
15 forgive me for doing the same thing, but we tried
16 real hard to work with everybody and we're going
17 to keep on doing so, and I think our track record
18 on that has been pretty good so far in terms of
19 some of the difficulty this commission has faced.
20 So we're going to continue do that and I'm
21 confident we can get that done. In terms of the
22 timing, also without going into great detail
23 here, there was some suggestion that 18 months,

1 two years had to do with casino opening. There
2 are ways to work around the railroad abandonment
3 while that's going and still get the casino open
4 and the boat in the water. So I don't want any
5 suggestion that that is some kind of issue here.

6 Finally, with respect to the contracts,
7 there are contract letting deadlines that the
8 sooner that this commission, which I hope will be
9 today, says let's go forward and move this way
10 because we've been told it's safe and it works
11 better, the sooner that we can work with INDOT in
12 terms of getting contracts let and getting this
13 work started, particularly since they have a
14 five-lane contract now and we can -- I believe
15 some of the letters that INDOT may have sent to
16 the staff in terms of how they could let
17 contracts on this process and had some very --
18 deadlines that were very short that would get
19 this project moving.

20 So with great respect to Mr. Braun --
21 excuse me, Jack -- and we are going to continue
22 to meet and work with them understanding that
23 concerns of businesses along that route, who I

1 think are going to find that they're going to get
2 more traffic past their businesses and that we're
3 going to work with them in terms of improving
4 access to that, I think they're going to be very
5 happy and we're going to work with them on that,
6 but I would ask the Commission, particularly
7 since the Commission doesn't meet every week,
8 that we could move forward on this now because
9 it's pretty important to getting on track. Thank
10 you.

11 CHAIRMAN KLINEMAN: You haven't answered
12 the levee.

13 MR. PETER RUSTHOVEN: I think Mr. Long
14 answered -- the land is going to be made
15 available for a levee. There's things that have
16 been to be studied, as I understand it, in terms
17 of what it actually takes to turn into a FEMA
18 levee as opposed to being raised to a certain
19 height. I think Mr. Long answered that question
20 in terms of what our understanding has been on
21 that and what we're going to do. We're still
22 acquiring that land. We're still acquiring that
23 railroad land. We're going to make it available

1 for that purpose. If there's issues about
2 raising the height, that's one of the issues
3 involved, that's something that can be a
4 addressed also. Tom, I don't know if there's
5 other points that you wanted to make in terms of
6 that. I thought it was pretty clear.

7 CHAIRMAN KLINEMAN: Just see if I
8 understand. In order to make it a FEMA levee, it
9 obviously would have to be built to a certain
10 standard of some sort which must cost a lot of
11 money.

12 MR. JACK BRAUN: That's correct. They
13 will do the studies or they propose that they
14 would do that study and testing. We were under
15 the understanding -- and I'll let the Commission
16 decide how they interpret it -- that there was
17 going to be a levee. I can assure you up to this
18 day right now Argosy and I think we're going to
19 work together. We'll have differences but we're
20 going to go in that direction, but we need a
21 little time. The citizens and the businessmen
22 have a right to be heard. They'll be heard
23 through our process at town council September

1 11th. I understand Peter's concern and wanting
2 to get with the project. We will compromise on
3 when you want to hear a response from us, but
4 we're not trying to hold things up. I do want to
5 make one issue here that has to be addressed and
6 it's not with Argosy. It's with the City of
7 Lawrenceburg. You requested that we come up with
8 our proposal on the road and the levee at that
9 meeting. The eleventh hour the mayor of
10 Lawrenceburg got with myself, both of our town
11 attorneys and he said there was \$5 million of
12 economic development money, and I'm assuming
13 there's getting it from Argosy is available. I
14 have yet to have him come and say how we want to
15 work this out. Why should we go along with all
16 this until we get things worked out? This is not
17 an Argosy problem. I am not saying it is. But
18 once again, I think I am going to work better
19 with Argosy than I will Lawrenceburg. Our
20 history shows that. That's all I have to say. I
21 would like to have some time.

22 CHAIRMAN KLINEMAN: Anybody have any
23 questions?

1 COMMISSIONER SWAN: What is the final
2 authority on this change? You're asking us for
3 some authority and our perview would cover a
4 certain area. I would assume that Indiana
5 Department of Transportation would be the final
6 authority.

7 MR. WALTER LAND: We are the final
8 authority with regards to engineering and traffic
9 safety, but the other issues are involved here is
10 one that I want to clarify, Mr. Long, because
11 I've been lead to believe that you would fix that
12 levee and doing it this way and entering into our
13 contract will be cheaper for you much more than
14 you building a road all by yourself. Plus the
15 fact that you will have access to your gaming
16 site much quicker if you were to build it all by
17 yourself. From letters from your
18 representatives, maybe I just am used to plain
19 language too much, but I understood that there
20 was a commitment to work this out and to raise
21 this levee which your engineers say from one to
22 three feet, and Jim says to me "Wait a minute.
23 This is going to cost a hundred million dollars.

1 We don't want to do it." I said "Well, it
2 shouldn't cost a hundred million dollars. You're
3 too good an engineer to know. You'll figure out
4 something." As far as I'm concerned, you made a
5 commitment. As INDOT -- and this is my expanded
6 duties by the commissioner to look at all these
7 gaming sites has brought a whole new concept of
8 my engineering career. One thing I do not care
9 for too much, I feel like I'm playing poker
10 everytime I'm dealing with developers or their
11 representatives, and I don't like that. I want
12 us to work together for the common good. We want
13 you to become successful and have access as soon
14 as possible. It brings money into Indiana and we
15 do, but if you make a commitment to these people
16 and to me or whomever and if you got a change in
17 something, I want to be informed so we can work
18 with you. I don't want to be in a constant state
19 of negotiation with any of you. I'm really
20 confused about this. Jim's letter, other people
21 have talked about it. We met with Jack Braun to
22 feel him out before this hearing today because we
23 wanted to know because I represented to him the

1 other thing that there was a commitment on that
2 levee and we weren't going to have increased
3 traffic and we have to consider the whole
4 corridor here.

5 The other thing is Segrams what you're
6 saying is that once a developer comes in that he
7 sees this thing to the end, not just to the point
8 that gets him in business, that if it's Segrams
9 that needs to be known that CSX is going to get
10 them traffic that you see that it's done because
11 you're dealing with a guy that's buying the
12 railroad or you're buying the railroad. So you
13 got some leverage over here. That's all I'm
14 saying is that this is a wonderful solution. It
15 gives the citizens of Indiana a seven-lane road
16 for a short span and it will be something to
17 build on, but it serves Argosy first and then we
18 think it should serve the community also.

19 MR. THAR: Walter, I think what this
20 commission was driving is there going to be
21 public hearings by INDOT on this proposed
22 increase to seven lanes?

23 MR. WALTER LAND: We won't have any

1 public hearings. What we're going to do is go
2 back and meet with Jack because after we met with
3 him the other night Argosy representatives and
4 myself and the engineer, we wanted him to know --
5 we were all trying to act in good faith and keep
6 the faith of the communities down there, but the
7 time we would probably have public meeting where
8 the public is once we define the plans enough so
9 we got something to show them. All we can do
10 Monday night is try to allay the business
11 people's fears that we're not going to do them
12 wrong.

13 CHAIRMAN KLINEMAN: There was going to
14 be a hearing on the levee. That's at the town.

15 MR. THAR: My thinking was this Indiana
16 Gaming Commission agreeing to change only because
17 the change in the proposal to us. We're not the
18 final authority I think is what Mr. Swan was
19 saying. INDOT seems -- and some other things had
20 to occur. We could say because it's safer and
21 not something else we'll approve it subject to
22 getting on the other improvements. I don't know
23 if that fits the bill with you, Mr. Braun.

1 MR. JACK BRAUN: That may well fit the
2 bill. I'm only asking that the people in the
3 Greendale businesses and the residents have a
4 right to be heard September 11th. I can tell you
5 here it will be public that I intend to sell the
6 seven lanes. I've talked to Walt. He's the
7 authority. I'm not on the highway. He's the
8 authority. He says this is the safest way. The
9 only thing I disagree with on the whole thing is
10 that weaving. I drive that road everyday for 14
11 years and I still got to weave. Maybe it's a
12 quarter of a mile and not the 800.

13 COMMISSIONER BOCHNOWSKI: The other thing
14 is on that levee that's not a done deal even if
15 INDOT says it is and you say it is and we say it
16 is. Sounds to me like the Department of Natural
17 Resources or somebody is going to have to get
18 involved in that first, that drainage problem.

19 MR. JACK BRAUN: I got Jim Mara, the
20 attorney for Oxbow. I talked to him but we'll
21 probably be at odds on this. There's a lot of
22 issues got to be covered, but if it is let go and
23 forgotten tonight, then there is no possibility,

1 but I'm saying let's get the levee going because
2 it takes two years, three years. We need to get
3 the Commission to be sure that it becomes a
4 reality. I assured Peter we'll work with him.

5 CHAIRMAN KLINEMAN: Wait just a minute.
6 I think in order to help the reporter, we're
7 going to take a five-minute break so she can
8 stretch her fingers because it's very hard for
9 her to get this down when we're sitting in this
10 row.

11 MR. THAR: There's also a gentleman back
12 here.

13 CHAIRMAN KLINEMAN: Why don't we take
14 five minutes.

15 (Short break taken.)

16 CHAIRMAN KLINEMAN: We'll come back to
17 order. Let the record show that Dr. Ross was
18 required to leave so he's no longer with us but
19 we still have a quorum. Let's see. Where were
20 we? I think maybe Mr. Long may have some things
21 to say to us.

22 MR. TOM LONG: Just in summary, Mr.
23 Chairman. We put everything in absolute

1 perspective. When we were here in our first
2 meeting -- let me come over in front you. We
3 proposed a road plan that we believed would be
4 excellent and solve a lot of the traffic issues
5 and problems. We stand here. Today we'll do it.
6 We'll go back and build that road. That's not a
7 problem. We've come with an alternative that we
8 felt is a safer alternative and is something that
9 should be looked at, and we don't mean to create
10 a lot of confusion over it. We'll stand with
11 either one. We'll stand with either plan, but I
12 want to be very definitive about something. At
13 no point in time did any person in my company
14 ever promise the City of Greendale we would build
15 them a levee. It was one of the benefits of
16 acquiring the railway in putting our road on it
17 would be that possibly that work would aid and
18 increase the water protection for the City of
19 Greendale, but we never committed to that.
20 Nobody -- I don't think any of them could tell
21 you that we did. That was never part of our
22 program. Everything we have ever committed to do
23 we do period, but that was never one of them.

1 I'll look everybody in the eye and tell them that
2 exactly. If there's a miscommunication somewhere
3 between the consultants working around for us and
4 things like that, I can understand how something
5 like that might have happened, but I can give
6 you, Mr. Chairman, from Tom Long nobody on my
7 staff or myself ever made that commitment. We're
8 willing to go back to the old plan. We don't
9 want Segrams -- we're going to work with them
10 with all the trackage rights. We have to work
11 with that under the old plan anyway. We just
12 thought this was a safer alternative and we
13 really appreciate your time in looking at this
14 and we're willing to do what you want us to do.
15 What plan do you want us to build and we'll build
16 it.

17 COMMISSIONER VOWELS: Which one of these
18 is less expensive, today's of June 30th's?

19 MR. TOM LONG: I think they're about
20 going to wash, Mr. Vowels, yes.

21 COMMISSIONER VOWELS: To build that big
22 ramp and all that stuff is just as expensive as
23 laying asphalt on some flat land?

1 MR. TOM LONG: I can't say -- I have to
2 look at my cost people. Paul.

3 MR. PAUL KELLER: I think the plan
4 you've seen could be would be somewhat less
5 expensive than the flyover.

6 CHAIRMAN KLINEMAN: I really think it's
7 got to be. Logic tells you it does. Let me say
8 my impression -- and I guess we'd have to go back
9 and search the record, but my impression was what
10 you were going to do with the road on the top of
11 the railroad was going to help Greendale. I
12 can't say that you said or anybody who came
13 before us said we will build you a levee. Those
14 words were never said, but certainly I came away
15 from those meetings thinking what you were going
16 to do was going to help Greendale in that lower
17 area so that they would be -- it would be more
18 available for development than it is today.

19 MR. TOM LONG: I think raising that road
20 up would have helped there, Mr. Chairman. I
21 don't disagree with that. FEMA levees are much
22 different than doing that.

23 CHAIRMAN KLINEMAN: I know. That's why

1 we're -- and you don't build any levees except
2 FEMA levees now; is that right?

3 MR. TOM LONG: I think that's pretty
4 close.

5 COMMISSIONER BOCHNOWSKI: I don't
6 remember any promise either during the hearings.
7 I think that you were indicating that the
8 roads -- but in my opinion, if this is safer, if
9 this makes the Oxbow people happy, that was a
10 primary concern equal to the concerns of the City
11 of Greendale was the concerns of the environment.
12 So I would be in favor of this. I don't think we
13 can make a decision on that levee because there
14 are other problems.

15 CHAIRMAN KLINEMAN: And really we're
16 getting into things that just -- to me they're
17 not issues that are before this commission.
18 Whether Segrams is going to have rail hookup or
19 not, that's an ICC matter. Whether you're going
20 to have a levee that meets FEMA standards is
21 FEMA's problem. I don't know what we can do to
22 help the people out. I understand there is a
23 gentleman from Lawrenceburg who is in business

1 that wants to speak and there's another fella
2 came up to me from the Sierra Club wants to say
3 something. We're rehashing or opening up some
4 things that I'm not too sure that we're really
5 capable of deciding.

6 COMMISSIONER BOCHNOWSKI: This is a
7 change from the original application so we do
8 have to deal with it. In my opinion, it's okay
9 with INDOT, it's okay with Oxbow, it's okay with
10 me.

11 CHAIRMAN KLINEMAN: And if it makes the
12 traffic move smoother.

13 MR. JACK BRAUN: What about Greendale?
14 First of all, I'd like to clarify. No one from
15 Argosy ever said to me that we're going to put
16 that levee in, but I want everybody to understand
17 to Argosy was not allowed to talk to us. That
18 was one of the things that Lawrenceburg had.
19 We'll talk to you. We were committed by the
20 mayor. We were -- when we sent the letter up
21 about our proposal and what that was, that
22 meeting was all about the road and the levee, and
23 I think Mr. Long is caught in the middle of this.

1 I am not accusing them of anything whatsoever.

2 COMMISSIONER BOCHNOWSKI: Because there
3 are economic realities. Let's face it. If they
4 can afford to it, they'll do it. There's a
5 limit. We're seeing this all over. I mean there
6 is a limit to what people can do.

7 MR. JACK BRAUN: There is a limit to
8 dying of a town too. I just ask you to bear that
9 in mind. That's where all our business is.

10 COMMISSIONER BOCHNOWSKI: I can't imagine
11 how this would, but I think that will all be
12 dealt with.

13 MR. TOM LONG: That you, Mr. Chairman.

14 COMMISSIONER VOWELS: One thing -- again,
15 it's our job to make decisions. We can't make
16 everybody happy. We have to do what we have to
17 do.

18 CHAIRMAN KLINEMAN: There are two more
19 people. It's the pleasure of the Commission to
20 hear from the Sierra Club and somebody that's in
21 business in Lawrenceburg, the name of which -- is
22 that gentleman still here? The Sierra Club is.
23 Wait a minute. We're trying to find out if we're

1 even going to hear from you. The other fella
2 from Lawrenceburg, is there something who wished
3 to address the Commission who's in business in
4 Lawrenceburg?

5 KAY FLEMING: He said that issue is
6 resolved.

7 CHAIRMAN KLINEMAN: Oh, okay. So he's
8 gone?

9 COMMISSIONER VOWELS: That the guy you
10 were talking to during the break?

11 KAY FLEMING: Yes.

12 CHAIRMAN KLINEMAN: We'll recognize you
13 for a couple minutes, but we really do have to
14 get out of here.

15 MR. ROBERT CARROLL: I thank the
16 Commission for the opportunity. My name is
17 Robert Carroll. I'm transportation chair of the
18 Riverhills Group, Sierra Club. Maybe my
19 observations may be pointless if the Commission
20 does not have the charge of the specifics of
21 implementation of this plan. The observation I
22 would make is that although it is true both plans
23 are contingent upon abandonment of the Central

1 Indiana Railroad spur, I think the desire to
2 abandon that and having that accomplished through
3 the ICC is like quantum leap. The other thing is
4 that although it is true that Segrams is the most
5 significant customer on that particular spur,
6 there is another customer out there who makes a
7 significant contribution to that railroad, and
8 the ability to abandon that and accommodate that
9 traffic is contingent upon an interface with CSX
10 and trackage rights, which are by no means
11 assured, and if you look at the negotiating
12 points between removing the present route for CSX
13 and relocating up to the levee to accommodate
14 this kind of trackage rights, the last
15 negotiations posted in the paper looked like CSX
16 wants no grade crossings. They have want an
17 eight-foot high fence and they want 60 mile an
18 hour speed limits, and Lawrenceburg says we want
19 grade crossings, no fence and 20 mile an hour
20 speed limits. That hardly seems like a good
21 point for negotiating as far as I'm concerned.

22 As far as the highway itself is
23 concerned, there were public hearings concerning

1 the fifth lane, the addition of the fifth turning
2 lane. I would assume that there will be public
3 hearings concerning the addition of the sixth and
4 seventh lane and certainly they will be
5 requesting it. Thank you.

6 CHAIRMAN KLINEMAN: Okay.

7 MR. HARLAN HOFFMAN: May I speak to
8 address the issue of what was the -- what the
9 terms were of Argosy upon its application and the
10 consideration for its license?

11 CHAIRMAN KLINEMAN: Vis-a-vis the levee?

12 MR. HARLAN HOFFMAN: Vis-a-vis the
13 levee. Vis-a-vis the levee and the roadway.

14 CHAIRMAN KLINEMAN: Well, come on up.

15 MR. HARLAN HOFFMAN: My name is Harlan
16 Hoffman. I'm an attorney for the town of
17 Greendale. I'm not familiar with Mr. Long. As
18 you can understand, the discussions that take
19 place in a community involving people immediately
20 before an appearance for a gaming license are
21 hectic. The Town of Greendale proposes bypass
22 roadway over a levee for the purpose of
23 alleviating traffic and benefiting the community,

1 and we stated that we were going to request that
2 consideration to the Commission. As a result of
3 our comments, we were contacted by a number of
4 the gaming organizations, including people from
5 Argosy and/or Indiana Gaming. In addition, we
6 were contacted by the mayor of Lawrenceburg who
7 wished the support of the Town of Greendale in
8 its presentation -- insofar as Lawrenceburg was
9 concerned in its presentation. As a result of
10 that conference had between the principals of the
11 Town of Greendale and the City of Lawrenceburg,
12 the City of Lawrenceburg stated it supported that
13 sort of a proposition and would do what it could
14 do to assist to see that it would come to
15 fruition. And it would be that if an entity like
16 Argosy or Indiana Gaming would get the license
17 and provide funds to acquire the rights to that
18 railroad and construct its road on that and some
19 additional funds were needed on top of that, it
20 would use some five million dollars that were
21 available in its economic development plan to see
22 that it it was accomplished, and there was a
23 flood levee discussed because we stated that that

1 being a legal entity would have the ability then
2 to acquire additional funds if a minor amount was
3 needed from local taxing within a conservancy
4 district.

5 So as far as I'm concerned, every
6 discussion we had with Argosy and Indiana Gaming
7 included a flood levee, and it was my
8 understanding and our proposal made to the Gaming
9 Commission that it include on a levee a roadway
10 which might include a railroad. Under those
11 circumstances, my part in this on behalf of
12 Indiana Gaming or any other organization in
13 support of them for our recommendation to the
14 Commission, for whatever weight it might have,
15 which in this effect was a letter from the town
16 board stating it supported Argosy's development
17 plan, was to go -- my role was to go out and
18 contact other people in the community to see if
19 they thought that it also would be a good idea
20 for Dearborn County. One of those individuals
21 was Ralph Sprecker with Segrams. It is Mr.
22 Sprecker's understanding that his support was
23 lent to this and desired by Argosy Gaming and

1 desired by the City of Lawrenceburg because it
2 included a flood plan -- I mean a flood wall on
3 top of that levee, a roadway and a railroad.
4 That is our understanding. That was our
5 discussion. It wasn't with Mr. Long. It was
6 with the representatives in the last days right
7 before the presentation before this commission.
8 Had those representations not been made, we would
9 have not had a discussion. I know Greendale
10 would not have sent its letter in support. I
11 don't know about Mr. Sprecker, but I would
12 represent to you that his support would not have
13 been the way it was. So whether or not someone
14 signed on the dotted line, whether or not someone
15 made a statement to the Commission, I would agree
16 with comments made by commission members that
17 they recall a flood levee because I certainly do.

18 CHAIRMAN KLINEMAN: Thank you.

19 MR. HARLAN HOFFMAN: And I would suggest
20 to you that this is a major departure and I think
21 it's a very significant factor of the license
22 that was developed which should a change be
23 permitted.

1 CHAIRMAN KLINEMAN: Well, we got a
2 problem. We've been told by the experts that the
3 seven lanes is a safer way to go than the
4 flyover, etc. etc. At least that's where I am.
5 So it would be contrary for the good of the
6 citizens of the State of Indiana to buy into any
7 other project other than the seven lanes which
8 we're told is safer. Now, having at least in my
9 mind arrived at that place, then where do we go
10 from there? Then I think things start to fall
11 out of our basket. I think the ICC is the proper
12 venue to find out whether Segrams is going to
13 have rail access or not. That would have to be
14 worked out or you'll never get the track
15 abandoned so you can cut through it have your
16 road. So obviously Indiana Gaming has got to
17 work and help with that problem and at the same
18 time they are going to have to solve to me this
19 levee problem, but to me these things are not
20 before us right now.

21 MR. HARLAN HOFFMAN: Mr. Chairman, I
22 would say that this is a feature of a particular
23 development that you approve. I would suggest if

1 safety is the --

2 CHAIRMAN KLINEMAN: I understood what
3 your position is, Mr. Hoffman.

4 MR. HARLAN HOFFMAN: No traffic would be
5 safer. If safety is the uppermost, then
6 eliminate the development and we will be the
7 safest we can be.

8 CHAIRMAN KLINEMAN: I think we went past
9 that point some time ago including June 30th.

10 COMMISSIONER BOCHNOWSKI: The county
11 voted for it. That was beyond our perview also.

12 MR. HARLAN HOFFMAN: If the town would
13 be given another chance, I can assure you it
14 would not vote for it, and you can ask everyone
15 who is from that town today.

16 COMMISSIONER BOCHNOWSKI: That could be
17 right, but that's not the way the system works.

18 CHAIRMAN KLINEMAN: And we're not going
19 to rehash.

20 MR. HARLAN HOFFMAN: All we ask is that
21 you require this company to fulfill its
22 development proposal that you approved.

23 CHAIRMAN KLINEMAN: We don't want that

1 proposal. We've been convinced we don't want
2 that. I've been convinced. I won't speak on
3 behalf of the other commissioners. I've been
4 convinced that I want the seven lanes instead of
5 the flyover.

6 MR. THAR: It's unfortunate we don't have
7 the record here. I suppose the record can be
8 checked. I'm just going to go with my memory of
9 the record which isn't any different than anybody
10 else here. I thought the representation was when
11 they were using the flyaway under the railbed it
12 requires a part of the road that it be raised,
13 that the road bed therefore would function to aid
14 in lowering flood costs. The concept of FEMA
15 design, to my knowledge, was never mentioned at
16 any time by anybody whether we were down there
17 for public hearings in Switzerland, Ohio and
18 Dearborn County or during the presentation of
19 Indiana Gaming or the city or anybody else. As
20 you look at the resolution which revolves around
21 this thing, what the resolution does it takes the
22 letter from Walter Land that's attached to it and
23 it basically says that the commission is going to

1 agree or disagree with that change, and if it
2 agrees with it, it agrees that the part of the
3 resolution with the six conditions that INDOT
4 says is the basis for their concurrence. No. 1
5 and 2 and 3 are not really at issue with regard
6 to the letter from INDOT. No. 4 is at issue.
7 No. 5 and No. 6 -- No. 5 Indiana Gaming paying
8 for it, that's not an issue. No. 6 that the rail
9 service still has to be done. We can agree with
10 that, but that's not our decision to decide. So
11 what it comes down to No. 4 is INDOT has
12 recommended as a part of its good faith effort to
13 assist Greendale with flood plane issues, Indiana
14 Gaming will work with Greendale, the Indiana
15 Department of Natural Resources and FEMA to
16 provide flood protection for considerable land in
17 Greendale. It's probably the next part of the
18 recommendation that gets things astray, that is,
19 by satisfying the FEMA requirements by utilizing
20 the existing railroad bank as a flood protection
21 levee. By satisfying the FEMA requirements was
22 not a part of any presentation or anything
23 approved by this commission. I believe, as Mr.

1 Long has illustrated, whether he goes with the
2 original plan, which they're willing to do, or he
3 goes with the revised plan, to require Indiana
4 Gaming to assist Greendale by maintaining the
5 part of the levee which they're not using, which
6 they indicated they would raise the levee to
7 where it would have been had they put the road
8 in, and the other things are the things this
9 commission approved and we can still hold them to
10 that. It's the FEMA issue that I believe that's
11 gotten everybody upset. Mr. Land.

12 CHAIRMAN KLINEMAN: Just a second, Mr.
13 Land.

14 MR. WALTER LAND: Argosy's engineers have
15 acted in good faith in pursuing this levee issue.
16 I met with DNR with them, and DNR told us that
17 this was not a function of theirs because it's an
18 outlying area and that we had to go to FEMA.
19 They've gone to FEMA and I know that they've also
20 done some preliminary drilling just to see what
21 the structural stability of this is, and so they
22 are, and so there may be a misunderstanding
23 between us and them, but I feel the commitment

1 was made and they are having ongoing efforts to
2 find out if it's feasible and possible to do.
3 The other thing is the seven lanes is the
4 approved solution. The other is not approved,
5 the original concept, so that takes the burden of
6 that off of you. MR.

7 THAR: But it does alter --

8 COMMISSIONER BOCHNOWSKI: In other
9 words, Indiana Gaming has not said they're not
10 going to do the levee. They're just saying that
11 they have to explore and make sure it can be
12 done.

13 MR. WALTER LAND: They're already doing
14 that.

15 MR. THAR: I think what Indiana Gaming is
16 saying is we have always agreed to modify that
17 railbed and raise it so it hit the 100-year flood
18 plane, but once FEMA stepped in and says in
19 addition to that there's 35 other, however many
20 there are, conditions to construction methods
21 that you've got to utilize, to say that I don't
22 know mind putting -- let's just arbitrarily sue
23 the figure -- ten million dollars in the roadbed

1 and then all of a sudden have somebody say that
2 won't do, it's going to be a hundred million. I
3 think there's a balk there, and that's a balk
4 they didn't commit to. So the question is is the
5 Commission in taking a look at this resolution
6 and the seven lanes because I think we are in the
7 process, as the chairman has pointed out, if a
8 road plan is safer and better for the
9 environment, how can we say no.

10 MR. WALTER LAND: That's correct. You
11 can't.

12 MR. THAR: By the same time then saying
13 but you can't let down on the commitments made
14 before, and I believe the overall concept that a
15 FEMA-built levee was never part of anything put
16 before the Commission, that's the sole really
17 disputed fact. Is that the position of
18 Greendale, that they believe a FEMA-quality levee
19 is what is required and what was represented to
20 be built? Or was it that they would improve that
21 existing area to the point where it would lessen
22 your flood insurance?

23 CHAIRMAN KLINEMAN: That's exactly my

1 impression. Mr. Thar gives exactly what I was
2 trying to convey of my understanding that it
3 would help you, but certainly nobody ever said it
4 was going to be --

5 MR. WALTER LAND: I believe that's
6 correct, Mr. Chairman.

7 MR. JACK BRAUN: Mr. Chairman, I want
8 everyone to understand I'm not saying that any
9 individual from Argosy said that they would meet
10 FEMA, but you have to understand the process that
11 we went through in Dearborn County. They did not
12 have the opportunity to speak with us. None of
13 the gaming companies that were being reviewed was
14 not allowed to speak to Greendale or any other
15 entity and the mayor of Lawrenceburg more than
16 once had told me when we're talking that flood
17 it's FEMA's requirements. I can assure you may
18 not use the word FEMA. I live there. I know
19 that it has to meet FEMA. When somebody talks a
20 levee to me, FEMA comes out of my mouth. The
21 mayor knew it. I feel sorry for Argosy. I feel
22 that they're stuck in the middle of something
23 here. A fact is a fact. I just want the time to

1 get with Lawrenceburg, and if they're not going
2 to do it, I want to find out where this five
3 million they said they were going to see they
4 got.

5 CHAIRMAN KLINEMAN: It sounds like if it
6 was a five million dollars problem, Mr. Braun, I
7 think we can solve that right now. I think it's
8 more closer to a hundred million dollar problem
9 as Mr. Thar is saying. I think Indiana Gaming
10 knows what it will cost to make a FEMA levee and
11 that's why they're not saying they're going to
12 give us a FEMA levee because it would probably
13 cost a lot of money. I'm getting ready to
14 conclude this. This gentleman was up. Did you
15 have something you wanted to add?

16 MR. TOM LONG: We're concluded, Mr.
17 Chairman.

18 MR. THAR: I think as an observation as
19 you take a look at the resolution, the issue then
20 becomes whether or not to delete Item 4. Mr.
21 Land, you're going to have to tell us what the
22 impact is going to be on INDOT, but Item 4 has a
23 clause that says by satisfying the FEMA

1 requirements by utilizing existing railroad bank
2 as a flood protection levee, which the Commission
3 may desire to modify so that it reads as part of
4 its good faith effort to assist Greendale with
5 flood plane issues. Indiana Gaming will work
6 with Greendale, Indiana Department of Natural
7 Resources and FEMA to provide flood protection
8 for considerable land in Greendale period. I
9 don't know if we can -- this Commission has never
10 made as part of anything that I remember.

11 CHAIRMAN KLINEMAN: I've had an
12 opportunity to read the next paragraph which is
13 not a numbered paragraph and that goes to the
14 Segrams issue, and basically it says Indiana
15 Gaming's acceptance of the (inaudible) is
16 necessary for INDOT's approval of this change.
17 In other words, you have said they have to be
18 assured that there's going to be rail service to
19 Segrams as part of this program too, and we're
20 not going to know that for a long time, I guess.
21 I don't know.

22 MR. THAR: I think the issue back to you,
23 Walter, is if INDOT can live with the deletion of

1 the FEMA requirement, this commission may very
2 well be in a position to approve this plan
3 because it still throws the final approval back
4 to INDOT to determine whether or not they met the
5 other conditions.

6 MR. WALTER LAND: We can do that.

7 MR. THAR: As to whether or not they've
8 worked in good faith with Greendale and the other
9 agencies to improve the existing railbed, not to
10 FEMA requirements, but to help with the flood
11 plane.

12 MR. WALTER LAND: I agree. That's fine,
13 Jack and Mr. Chairman, because FEMA did not enter
14 into this until through their process of trying
15 to do something with the levee it came into play.

16 MR. THAR: They may very well find
17 there's a way they can meet a FEMA requirement.

18 MR. WALTER LAND: I'm sure Mr. Long and
19 his engineers can work this out.

20 MR. HARLAN HOFFMAN: I know you
21 gentlemen are trying to work something out very
22 hard and difficult, but why did Indiana Gaming
23 contact FEMA if they weren't required?

1 CHAIRMAN KLINEMAN: They were sent to
2 FEMA by --

3 MR. WALTER LAND: DNR didn't want to have
4 jurisdiction over it.

5 MR. HARLAN HOFFMAN: To create a flood
6 levee. They found out that DNR doesn't control.
7 Why were they interested in a flood levee if they
8 didn't think they had to build one?

9 CHAIRMAN KLINEMAN: Just a minute.
10 We're here to make a decision. We've heard
11 everything. The only thing I ask, Mr. Land, of
12 you again is your letter, which got made a part
13 of our resolution here, says that aspect is
14 assurance of continued rail service to Segrams
15 and other present rail customers after the
16 purchase of the CIRR right-of-way. So you kind
17 of conditioned your approval on that aspect too
18 as I read it.

19 MR. WALTER LAND: Well --

20 CHAIRMAN KLINEMAN: We're just not going
21 to know that.

22 MR. WALTER LAND: We don't know lot of
23 things that we're having to answer to.

1 CHAIRMAN KLINEMAN: But that's also --
2 the rail service to Segrams was going to be
3 affected regardless of whether they built on top
4 of that levee or didn't. Segrams was going to
5 have to make some other arrangement. Wasn't that
6 your understanding?

7 MR. ANDY LIGHT: Maybe this is where it
8 comes into play. I think the new proposal which
9 we have just found out about talks about doing
10 some DOT work right now off the 275, I guess is
11 the highway, which I don't think DOT can start in
12 there and ripping up railroad tracks. They need
13 approval from the ICC, so that may be a little
14 bit of a difference between the first route and
15 the second route. But certainly eventually they
16 would need ICC railroad approval. I think it
17 comes down to a timing issue.

18 MR. WALTER LAND: Let me clarify that.
19 There will be two contracts. We will add
20 everything up to the intersection of 275 and 50
21 on our present contract as a changeover. The
22 other -- because of the right-of-way issue we
23 will have to go into a separate contract because

1 hopefully it will be concluded before this
2 contract is finished next fall of '96.

3 MR. THAR: The point of the matter that
4 I'm seeing with regard to this whole thing
5 here -- please, I don't want to put words in
6 anybody's mouth, but it's this. They're asking
7 to modify their traffic flow. They presented a
8 plan that's agreed to be safer, that's
9 acknowledged to be safer. There's more benefit
10 to the public in terms of highway use than there
11 is to dedicated road that goes to one place. DOT
12 has the final say on it. DOT has gone along with
13 their plans so long as certain conditions are
14 met. All we're doing in this resolution is
15 saying either, yes, we'll go along with the
16 change in the plan and they've got to go ahead
17 and satisfy DOT, or they got to stick with the
18 original plan. I think DOT has acknowledged that
19 the FEMA thing is not necessar to their concern
20 at this point as long as there is -- and Walter,
21 I agree with you. Somebody implies they're going
22 to attempt to improve something in a town, they
23 need to carry through with that, and I believe

1 Mr. long has indicated that they'll do that, so
2 by deleting the FEMA reference I think the
3 Commission may be in a position to determine
4 whether or not they want to go ahead with this
5 plan. Because ultimately all we're saying is if
6 we go along with the change so DOT, if you feel
7 like it can be done, go ahead. DOT out of
8 deference is coming back to the Commission
9 basically saying we're not going to approve this
10 plan if you guys think it's a major change to the
11 application, which I think it is. It's a totally
12 different way to move traffic in. So that's
13 what's really before this commission. Mr.
14 Chairman, do you have an observations on that?

15 CHAIRMAN KLINEMAN: I agree, except that
16 I keep reading Mr. Land's letter and it says
17 INDOT's further stipulation is while we recommend
18 the plan to the Commission, it is with the
19 understanding that all of the aspects as agreed
20 by Indiana Gaming Company including the sixth
21 will be accomplished. The sixth is the rail
22 service. Even if we eliminate the FEMA reference
23 in 4 we're still stuck with something which -- I

1 guess it is not really -- it existed on June 30th
2 because they wouldn't take the railroad away by
3 building a thing on it so I guess I'm asking you
4 can you proceed from a guarantee that Segrams has
5 rail service and still recommend this to us?

6 MR. WALTER LAND: I'm sure Mr. Long and
7 us can work together.

8 MR. TOM LONG: We absolutely will.

9 MR. THAR: There's one other option
10 that's been brought up by Deputy Director Hannon,
11 and it's whether or not the Commission wants to
12 defer to anything by resolution. Agree the
13 change would be acceptable and so long as it goes
14 to other items, we get further information on
15 them. Give them the knowledge the seven-laner is
16 going to be okay but it's also going to require
17 good faith efforts to get the railroad and the
18 levee issue -- in my terms levee, different than
19 your terms -- to be reported on next meeting.
20 I'm throwing that out as an option.

21 MR. TOM LONG: Mr. Thar, we want to be
22 sure if we have to extend this contract with Mr.
23 Land he's got what he wants to add a changeover.

1 We start paying for that program we want to make
2 sure that's okay with everybody and we're
3 investing that money that's part of our road
4 commitment that we made. That's one thing we
5 want to make sure we're doing, however you decide
6 to do it.

7 MR. JACK BRAUN: My original request
8 here was just to extend this. I am not saying
9 that the seven lanes is a bad issue. I have
10 really no animosity fee towards Argosy concerning
11 the levee. There was a big misunderstanding and
12 I think we're both sitting here with egg on our
13 face, but that's something that we got to
14 address. If it would please the Commission, I'll
15 move my date in. We have the people September
16 11th coming in. ARGosy is going to present it
17 and so is -- Mr. Land's coming down. What if you
18 give us until Wednesday? That's the 14th. We'll
19 fax you a letter. I understand what the
20 Commission is charged. You got to realize --

21 CHAIRMAN KLINEMAN: This is what I think
22 I'm going to do. We're not going to extend it.
23 We'll do this. We will approve this plan subject

1 to INDOT giving its final approval. It's going
2 to be up to you. If you still stick with the
3 seven lanes regardless of conditions in out, up
4 and down, it will just be approved automatically.
5 When you approve it, we approve it. Is that okay
6 with the Commission?

7 COMMISSIONER BOCHNOWSKI: And that way
8 he'll still hear everything that happens
9 September 11th.

10 CHAIRMAN KLINEMAN: And you can still
11 tell your people in Greendale the issue hasn't
12 been decided adversely in any fashion, it's still
13 open.

14 COMMISSIONER BOCHNOWSKI: Part of the
15 problem is our schedule and the lag time.

16 CHAIRMAN KLINEMAN: I would entertain a
17 motion we can resolve this thing.

18 COMMISSIONER BOCHNOWSKI: I move that we
19 accept this new plan subject to the approval of
20 the Indiana Department of Transportation.

21 CHAIRMAN KLINEMAN: Is there a second?

22 COMMISSIONER SWAN: Second.

23 CHAIRMAN KLINEMAN: All those in favor

1 say aye.

2 MR. THAR: Point of discussion. Does
3 that include the FEMA?

4 CHAIRMAN KLINEMAN: It's going to be up
5 to them. We're open completely. If INDOT ends
6 up saying that seven lanes is okay and it's
7 subject to this and this and this, we bought into
8 that. If they say seven lanes is good period, we
9 bought into that too. It's been moved and
10 second. Any further discussion? Everybody
11 understand the motion? All those in favor say
12 aye. Contrary. Thank you.

13 Anything else? The next meeting will be
14 October 17th. The business meeting will be at
15 ten o'clock and we will be in the Hammond Civic
16 Center in Hammond, Indiana.

17 (Whereupon, the proceedings were
18 concluded.)

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